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ABSTRACT

Texas' policies and administrative procedures for special education are set forth. General special education concerns are covered, such as definitions of 12 exceptionalities, administrative structures, and planning and evaluation approaches. Child identification, individual assessment, and individual educational plan development and review are among the topics in a section on child centered educational process. Related services, special education personnel, and residential schools are considered in a section on the special education program. Special program provisions touch on such aspects as approved nonpublic schools, rehabilitation districts, and responsibility of other state agencies. A section on the program support system (including policies on policy and program development and procedural safeguards) is followed by a final section on special education funding. Extensive appended material is also included. (CL)

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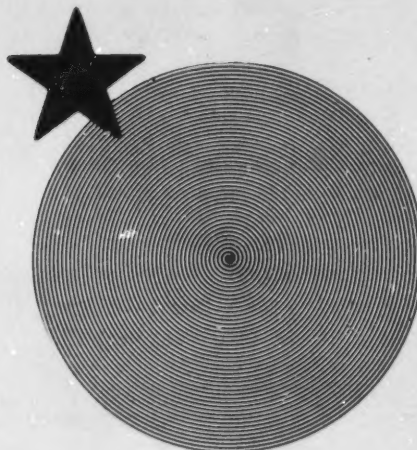
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**POLICIES AND ADMINISTRATIVE
PROCEDURES FOR
THE EDUCATION OF
HANDICAPPED
STUDENTS**



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COMPLIANCE STATEMENT

TITLE VI, CIVIL RIGHTS ACT OF 1964; THE MODIFIED COURT ORDER, CIVIL ACTION 5281, FEDERAL DISTRICT COURT, EASTERN DISTRICT OF TEXAS, TYLER DIVISION

Reviews of local education agencies pertaining to compliance with Title VI Civil Rights Act of 1964 and with specific requirements of the Modified Court Order, Civil Action No. 5281, Federal District Court, Eastern District of Texas, Tyler Division are conducted periodically by staff representatives of the Texas Education Agency. These reviews cover at least the following policies and practices:

- (1) acceptance policies on student transfers from other school districts;
- (2) operation of school bus routes or runs on a non-segregated basis;
- (3) nondiscrimination in extracurricular activities and the use of school facilities;
- (4) nondiscriminatory practices in the hiring, assigning, promoting, paying, demoting, reassigning, or dismissing of faculty and staff members who work with children;
- (5) enrollment and assignment of students without discrimination on the basis of race, color, or national origin;
- (6) nondiscriminatory practices relating to the use of a student's first language; and
- (7) evidence of published procedures for hearing complaints and grievances.

In addition to conducting reviews, the Texas Education Agency staff representatives check complaints of discrimination made by a citizen or citizens residing in a school district where it is alleged discriminatory practices have occurred or are occurring.

Where a violation of Title VI of the Civil Rights Act is found, the findings are reported to the Office for Civil Rights, Department of Health, Education and Welfare.

If there is a direct violation of the Court Order in Civil Action No. 5281 that cannot be cleared through negotiation, the sanctions required by the Court Order are applied.

TITLE VII, CIVIL RIGHTS ACT OF 1964; EXECUTIVE ORDERS 11246 AND 11375; TITLE IX, 1973 EDUCATION AMENDMENTS; REHABILITATION ACT OF 1973 AS AMENDED; 1974 WAGE-HOUR LAW AMENDMENTS; AND VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972 AS AMENDED

It is the policy of the Texas Education Agency to comply fully with the nondiscrimination provisions of all federal and state laws and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any programs or activities which it operates on the grounds of race, religion, color, national origin, sex, handicap, age, or veteran status (except where age, sex, or handicap constitute a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency makes positive efforts to employ and advance in employment all protected groups.

FOREWORD

The State Board of Education is required by statute to provide rules for the operation of a statewide special education program so that a free appropriate public education is available to all eligible handicapped students. The policies and administrative procedures are based on state statutes, federal laws and regulations, and the Goals for Public School Education in Texas as adopted by the State Board of Education. The Policies and Administrative Procedures for the Education of Handicapped Students, Texas Education Agency publication AD0 871 01, is the response to statutory requirements. This publication supercedes previous special education policy documents and is effective with school year 1979-80

The Texas State Planning Design for the Education of Handicapped Children and the Texas Education Agency Annual Program Plan for Part B of the Education of the Handicapped Act as Amended by Public Law 94-142, along with this publication, are components of the statewide design.

In attempting to make a more usable publication, an appendix has been added which includes an annotated bibliography and selected policies, administrative procedures, and excerpts from state statutes.

Alton O. Bowen
Commissioner of Education

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35.71 SPECIAL EDUCATION IN GENERAL

.010 Purpose

Public education is the responsibility of the state to ensure that each student enrolled in the public school system shall have access to programs and services that are appropriate to his or her educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors. The special education program is composed of appropriate services from all facets of education for students who are handicapped and includes special program provisions for students who are hearing impaired or visually handicapped.

Each student is a resident of the school district in which the parent or other person* who has the primary legal obligation for care, control, and custody of a handicapped student resides. If the state is managing conservator of the student, the resident district is the district within which the student is placed by the state.

The Commissioner of Education shall develop administrative procedures based on State Board of Education policies for implementation by school districts, special education cooperatives, regional education service centers, other units of state government, and private agencies providing educational services to handicapped students.

The Commissioner of Education shall provide a statewide design for the education of handicapped children to ensure the delivery of services and the coordination and use of all available resources for the maximum benefit to each student who is handicapped.

*This policy statement expands the definition of parent to include guardian or other person who has the primary legal obligation for care, control, and custody of a handicapped student.

Reference

Section 16.104, Texas Education Code
Section 11.052, Texas Education Code
Section 11.091, Texas Education Code
Section 16.161, Texas Education Code
Section 11.10, Texas Education Code
Section 11.02(b), Texas Education Code
Section 11.06, Texas Education Code
Section 16.001, Texas Education Code
Section 1.04(c), Texas Education Code

.010 Purpose

Special education is that part of public education which provides all handicapped students full educational opportunity. Through the provision of special education services, handicapped students are guaranteed an equal opportunity for a free appropriate

35.71 SPECIAL EDUCATION IN GENERAL (continued)

public education. To the extent that they will benefit, handicapped students are educated with their nonhandicapped peers.

Priorities are established for the allocation and use of available resources. Without exception, special education services are provided first to handicapped children not receiving an education of any kind and second to students with the most severe educationally handicapping condition needing a more appropriate education.

The comprehensive statewide design for the education of handicapped students is composed of the State Board of Education policies and the administrative procedures for special education. The policies and the procedures define the planning structure and establish minimum standards for the delivery of services and for the use of resources to assure that an appropriate public education is available to all handicapped students. The planning structure and minimum standards are to be implemented at the state level and in each school district, special education cooperative, education service center, and other units of state government and private agencies providing educational services for handicapped students.

.020 Definitions

(1) Special Education

Special Education is the provision of a continuum of child-centered educational and supportive services in combination with those provided in the general school program to meet the needs of students who are handicapped.

(2) Handicapped Students--General

"Handicapped students" are students between the ages of 3 and 21, inclusive, with educational handicaps (physically handicapped, mentally retarded, emotionally disturbed, learning disabled, speech handicapped, autistic, or multiply handicapped); students leaving and not attending public school for a time because of pregnancy; and students between birth and age 22, inclusive, who are auditorially handicapped or visually handicapped, whose disabilities are so limiting as to require the provision of special services in place of or in addition to instruction in the regular classroom.

Reference

Section 16.104, Texas Education Code
Section 16.161, Texas Education Code
Section 11.052, Texas Education Code
Section 11.091, Texas Education Code
Section 11.10, Texas Education Code

35.71 SPECIAL EDUCATION IN GENERAL (continued)

(3) Physically Handicapped Students

"Physically handicapped students" are students whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

- (A) Orthopedically handicapped students are those who have a severe orthopedic impairment which adversely affects educational performance. The term includes impairments caused by congenital anomaly and impairments caused by disease.
- (B) Other health impaired students are those with limited strength, vitality, or alertness, due to chronic or acute health problems, which adversely affect educational performance.

(4) Auditorially Handicapped Students

"Auditorially handicapped students" are students whose hearing is so impaired that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

Note: The term "auditorially handicapped" is understood to be synonymous with "hearing impaired" and both terms are understood to include "deaf" and "hard of hearing."

(5) Visually Handicapped Students

- (A) "Visually handicapped students" are students whose sight is so impaired that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.
- (B) "Deaf-blind students" are those whose hearing and vision, after all necessary medical treatment and use of hearing and optical aids, remain legally nonfunctional or otherwise result in serious educational handicaps requiring special provisions for maximal educational achievement.

(6) Mentally Retarded Students

"Mentally retarded students" are students with significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior and manifested during the developmental period such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

35.71 SPECIAL EDUCATION IN GENERAL (continued)

(7) Emotionally Disturbed Students

"Emotionally disturbed students" are students whose emotional condition is psychologically or psychiatrically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

(8) Learning Disabled Students

"Learning disabled students" are students who demonstrate a significant discrepancy between academic achievement and intellectual abilities in one or more of the areas of oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, mathematics reasoning, or spelling; for whom it is determined that the discrepancy is not primarily the result of visual handicap, hearing impairment, mental retardation, emotional disturbance, or environmental, cultural, or economic disadvantage; and for whom the inherent disability exists to a degree such that they cannot be adequately served in the regular classes of the public schools without the provision of special services.

(9) Speech Handicapped Students

"Speech handicapped students" are students whose speech is so impaired that they cannot be adequately educated in regular classes of the public schools without the provision of special services.

(10) Autistic Students

"Autistic students" are students whose disturbances of speech and language, relatedness, perception, developmental rate, and motility are such that they cannot be adequately educated in the regular classes of public schools without the provision of special services.

(11) Multiply Handicapped Students

"Multiply handicapped students" are students handicapped by any two or more of the handicapping conditions described that may result in multisensory or motor deficiencies and developmental lags in the cognitive, affective, or psychomotor areas such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(12) Pregnant Students

"Pregnant students" who may be considered eligible for special education services are those students who have been diagnosed by a licensed physician as being pregnant and who, for an

35.71 SPECIAL EDUCATION IN GENERAL (continued)

appropriate period of time, desire to continue their education in an alternative setting rather than continuing in the regular education program setting.

.020 Definitions (See Policy 35.71.020)

.030 Administrative Structure

(1) State

The Texas Education Agency shall exercise leadership in providing a comprehensive special education design and shall exercise guidance in the development, implementation, operation, and evaluation of a statewide comprehensive special education program for handicapped students in Texas (Policy 1302). The Texas Education Agency shall ensure active participation in special education planning by the publics involved.

(2) Local

School districts have the primary responsibility for the provision of comprehensive special education services to all handicapped students. School districts of less than 3,000 average daily attendance, unless otherwise authorized by the Commissioner of Education, will be members of approved special education cooperatives.

An approved cooperative will function under policies of a board of managers composed of superintendents of participating school districts. A fiscal agent will be designated by the board of managers subject to approval by the Commissioner of Education.

(3) Regional

The system of regional education service centers is part of the comprehensive special education program for handicapped students and shall provide services for handicapped students that will be in compliance with the approved statewide design for special education.

(4) Other

The educational programs and services provided handicapped students by other units of state government and approved private agencies shall be subject to rules and regulations as developed by the Texas Education Agency.

Reference

Section 11.02, Texas Education Code
Section 11.052, Texas Education Code
Section 11.103, Texas Education Code

35.71 SPECIAL EDUCATION IN GENERAL (continued)

.030 Administrative Structure

(1) Public Participation

Public participation is established as necessary for the best interest of handicapped children in the development of special education planning in accordance with policies of the State Board of Education. The participation includes but is not limited to advisory groups for special education.

- (A) There is a state-level advisory committee which includes a handicapped individual and a parent of a handicapped student.
- (B) The school district provides for public participation from those in the community concerned with educational programming for the handicapped including parents of handicapped students and handicapped individuals.
- (C) Regional advisory groups are composed of professional personnel from school districts in the region and representatives from other public and private educational and related agencies which provide services for handicapped students.

(2) Special Education Cooperatives

Special education cooperatives are approved by the Commissioner of Education. Cooperatives may be reorganized on approval by the Commissioner of Education. Superintendents of participating schools of cooperatives are members of the board of managers and provide direction for the operation of the cooperative. Effective September 1, 1979, only accredited school districts having grades K-12 or regional education service centers are approved as fiscal agents.

Each cooperative has written policies approved by its management board and each district board of trustees. The policies address the following functions:

- (A) Administrative responsibility of the Director of Special Education
- (B) Procedure for determining student needs within the cooperative and the methods of allocating resources to meet those needs, including the percentage that each district will be charged for itinerant and supportive staff
- (C) Fiscal responsibility of each district including pro rata share of Foundation School Program costs, indirect costs,

35.71 / SPECIAL EDUCATION IN GENERAL (continued)

operating funds, audit exceptions, and other fiscal responsibilities incurred by the cooperative arrangement

- (D) Employment, dismissal, and performance evaluation of cooperative personnel and personnel contracts
 - (i) Each school district within the cooperative is responsible for employment and dismissal of personnel who serve only that district.
 - (ii) Itinerant personnel serving cooperative schools are considered cooperative personnel but under the general policies of the fiscal agent, unless otherwise approved.
- (E) Maintenance of special education personnel records by both the individual school districts and the fiscal agent
- (F) Sick leave and substitute teachers policies for cooperative personnel
- (G) Coordination of school calendars
- (H) Procedure for receiving each district's pro rata share of operating funds submitted to the fiscal agent and the utilization of such funds
- (I) Accounting procedures relative to funds allocated to the cooperative
- (J) Policies regarding expenditures of and accounting for funds for consultant and evaluation services, nonpublic school contracts, special seats, books, instructional media and equipment, other required supplies, and travel
- (K) Procedures for disposing of funds on hand with the termination of the cooperative arrangement or the change of fiscal agents
- (L) Policies regarding any other areas of fiscal responsibility with which a district or cooperative must normally deal

(3) Regional Special Education Programs

The special education program of each education service center is responsible for the following basic educational services:

- (A) administering regional planning and evaluation;

35.71 SPECIAL EDUCATION IN GENERAL (continued)

- (B) providing or causing to be provided direct instructional or related student services as needed when school districts are unable to provide those services and in those instances when the services can more effectively be provided by or through the service center; and
- (C) supplying supportive services and technical assistance for handicapped students and special education programs in the region.

.040 Planning and Evaluation

School districts and regional education service centers shall develop a comprehensive plan which shows the orderly development and operation of the program over a five-year period. An annual evaluation of the special education program shall also be made, including information required by and submitted to the Texas Education Agency.

School districts operating special education programs for handicapped students and regional education service centers providing special education services shall be subject to program reviews, monitoring, audit, accreditation reviews, or other regulatory procedures as may be deemed necessary by the Texas Education Agency.

School districts and education service centers shall furnish reports to the Texas Education Agency according to procedures established by the Commissioner of Education.

Reference

Section 21.0331, Texas Education Code

.040 Planning and Evaluation

(1) Local Education Programs, Cooperatives, and Service Centers

Each school district, special education cooperative, and education service center develops a three-year plan which states annual and long-range program goals, objectives, and activities for special education in meeting handicapped student educational and program priorities. The plan will include a two-year projection beyond the three-year plan of service needs and plan for delivery. Each school district will define in its introduction to the three-year plan its relationship between the special education planning priorities and the district's five-year priorities plan for educational improvement.

The three-year plan for special education is updated annually and available for review upon request. Each plan of the school district and education service center is also reviewed and approved

35.71 SPECIAL EDUCATION IN GENERAL (continued)

annually by the respective local board of education, cooperative management board, or board of directors. A report of the self-evaluation of progress made toward meeting the annual priority objectives and any changes are maintained and available for review.

The education service center provides technical assistance needed by the school districts and cooperatives in developing and implementing the three-year plan.

Each school district or special education cooperative will provide the education service center complete copies of the three-year plan and succeeding annual updates. The education service center will synthesize and analyze the plans for the purpose of projecting the education service center's three-year plan and preparing the regional plan of annually updated special education services to school districts. The service center's plan based on the most current data is approved annually by the Texas Education Agency.

(2) Other Agencies

Each agency of public education providing educational programs for eligible handicapped students will maintain individual student and personnel data and report such data in cumulative form according to established procedures by the Texas Education Agency. These procedures will include the reporting of other data as may be needed.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS

.010 Definition

The child-centered educational process is a continuum of special education services provided directly to a student and includes:

- (1) Child Identification
- (2) Individual Assessment
- (3) Individual Educational Plan Development
- (4) Individualized Instruction
- (5) Related Services
- (6) Individual Educational Plan Review

Reference

Section 16.104, Texas Education Code
Section 11.33(c), Texas Education Code
Education of the Handicapped Act, 20 U.S. Code,
Sections 1401-1420

.010 Definition (See Policy 35.72.010)

.020 Child Identification

Each school district and education service center shall maintain a system for identifying handicapped children who are in need of special education according to procedures established by the Commissioner of Education.

.020 Child Identification

Students who may need special education are identified and referred. Students may be in school but not identified as handicapped or may not be in school.

(1) Public Awareness

Each school district and education service center in accordance with plans developed by the Texas Education Agency will maintain a system of public awareness to inform citizens of educational opportunities available to the handicapped.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

(2) Direction Service

A statewide direction service system is maintained and includes:

- (A) a system for processing referrals,
- (B) maintenance of a data bank of resources available to serve handicapped students, and
- (C) a system for following through on each referral to ensure the delivery of services.

Each regional education service center establishes and maintains a regional direction service system according to procedures provided by the Texas Education Agency.

Each school district has written procedures for using the regional direction service system.

The Texas Education Agency maintains and coordinates a statewide direction service system to support the regional systems.

(3) Referral Process

Consideration of a student's need for special education is initiated by a referral. Referral may be made by the parent; physician; community agencies; other appropriate individuals, groups, or organizations; school personnel; or as a result of any district-wide testing or screening program which the school district provides for all students.

- (A) A designated educational liaison is assigned to each student referred. The educational liaison is responsible for the collection of data in the referral process and participation in the referral committee and admission, review, and dismissal committee decisions. Conditions guiding the assignment of an appropriate educational liaison are:

- (i) For students who are currently enrolled in regular education programs, the regular education personnel who identified the student with possible needs for special services or other qualified personnel act as the designated educational liaison with the approval of the campus administrator.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (ii) For pre-kindergarten students, the appropriate administrator assigns a person from the program area most closely related to the student's possible needs for special services to act as the designated educational liaison.
 - (iii) For students who are not receiving educational services of any kind, the appropriate administrator assigns a person from the program area most closely identified with the student's possible needs for special services to serve as the designated educational liaison.
 - (iv) For students who are enrolled in a public or non-public institution and who are returning to school districts, the appropriate administrator assigns a person from the program area most closely identified with the student's possible needs for special services to serve as the designated educational liaison.
- (B) Data collected by the designated educational liaison for presentation to the referral committee will include but not be limited to the following information:
- (i) the student's current educational status including attendance records, grades and achievement data, and classroom observation;
 - (ii) previous educational efforts and strategies provided for the student and the results of those efforts;
 - (iii) documentation of recent vision and hearing screening including available reports from evaluations done by vision or hearing specialists as follow-up to the screening;
 - (iv) an updated general health history inventory or documentation from recent medical evaluations that identify health or medical conditions that may be affecting the student's current educational achievement; and
 - (v) information reported or provided by parents.
- (C) Referrals are processed through a referral committee with the exception of referrals of students admitted to hospitals, students new to the district who have been receiving special education services in another school district, and pregnant students. The school has a procedure whereby these referrals are made directly to the admission, review, and dismissal committee.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (D) Each referral committee includes: the student's designated educational liaison, the building principal or designated representative, regular education support staff members when school-aged students are referred, and other individuals at the discretion of the committee, including those knowledgeable of the full range of placement alternatives.

The referral committee reaches a decision regarding possible educational alternatives for each student brought to its attention.

- (E) The referral committee reports its decision in writing signed by all members to the initial referral source within 30 calendar days of regular work responsibilities (exclusive of school holidays) from the time the initial referral is received.

.030 Individual Assessment

The Commissioner of Education shall establish procedures whereby school districts and education service centers provide for individual assessment appropriate for each student referred for special education.

Assessment shall be performed in the student's demonstrated dominant language where appropriate with consideration of cultural differences which may affect the student's performance in the assessment process.

The purpose of this assessment is to (1) determine the presence or absence of a physical, mental, or emotional disability which may be contributing to a student's educational need, (2) determine the presence or absence of a significant educational need requiring special education instructional services, and (3) identify specific learning competencies as well as instructional and related services needs.

Reference

State Board of Education Policy 1107

.030 Individual Assessment

Individual assessment is the collecting and analyzing of information about an individual student in order to identify an educational need in terms of (1) the presence or absence of a physical, mental, or emotional disability; (2) the presence or absence of a significant educational need; and (3) the identification of specific learning competencies of the student along with specific instructional and related services that could improve and maintain the student's competencies.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

Throughout the individual assessment process, appropriate procedural safeguards are observed. (Policy and Administrative Procedure 35.75.070)

(1) Tests and Other Assessment Procedures

Tests and other assessment procedures must be:

- (A) administered in the child's demonstrated dominant language or other mode of communication, unless it is clearly inappropriate or unfeasible to do so;
- (B) validated for the specific purpose for which they are used;
- (C) administered by appropriately trained, licensed, or certified personnel; and
- (D) selected and administered so as to ensure that whatever factors the tests purport to measure are being measured, considering the possible effects that the student's disability may have on the results.

(2) Individual Assessment Process

In accordance with procedures established by the Texas Education Agency, each school district develops and implements procedures by which a student referred to special education is given further consideration through an individual assessment and by which the personnel responsible for each stage of the assessment are selected and assigned.

There are three stages in the individual assessment process, the combined results of which yield a comprehensive individual assessment:

- (A) a determination of physical, mental, and/or emotional conditions;
- (B) a determination of educational performance levels; and
- (C) the identification of specific competencies and recommended instructional and related services needed.

(3) Assessment of Physical, Mental, and/or Emotional Conditions

- (A) The purpose of an assessment of physical, mental, and/or emotional conditions is to determine the presence or absence of a disability which may or may not be contributing

to the educational need of a student. A disability is defined as a physical, mental, or emotional condition, determined by an appropriately designated professional(s), which meets the specific eligibility criteria as established by the Texas Education Agency.

- (B) It is not the responsibility of the designated professional(s) to determine that the disability is educationally handicapping; nor is it his/her responsibility to determine the student's need for special education. However, since these determinations will be made by the admission, review, and dismissal committee on the basis of specific eligibility criteria, it is important for the designated professional(s) to provide a written report indicating the presence or absence of symptoms or conditions as specified in the specific eligibility criteria for each handicapping condition. The report may include a statement of functional implications for the educational process.
- (C) Assessment of physical, mental, and/or emotional conditions must include a consideration of the student's functioning in at least five areas: language, physical, emotional/behavioral, sociological, and intellectual. Each school district will specify personnel responsibilities and procedures for accomplishing each part of the assessment. The professionals responsible for assessing each area will make professional judgments regarding the degree to which the assessment in each area is necessary. Specific eligibility will indicate the minimum intensity of assessment in each area, but all five areas must be addressed in the written report to the admission, review, and dismissal committee with the exception of pregnant students.
- (D) Assessment of very young or severely handicapped students may not be possible within these procedures. The professional(s) responsible for assessing such students must document the rationale for deviating from the standard procedures as well as the results of the assessment.
- (E) The assessment of physical, mental, and/or emotional conditions will result in a written report describing the assessment done in each of the five areas and the results of those assessments.
- (F) The five areas that must be addressed in an assessment of physical, mental, and emotional conditions are listed

below, along with a description of what the assessment in each area will include when such is required by specific eligibility criteria:

(i) Language

The assessment of an individual's language must consist of formal and/or informal assessment of language dominance and proficiency in both the expressive and receptive domains. This assessment must take place before any other individual assessment may take place.

When it has been determined through assessment of language dominance and proficiency that a student's dominant language is other than English, instruments must be administered in the other language. Where no clear language dominance or proficiency is demonstrated, instruments must be administered in both English and the child's other language. When translating an instrument from English to another language, every effort must be made to maintain the original intent and purpose of each item. Interpretation of scores derived from translated instruments must take into consideration possible errors or inconsistencies in literal or conceptual translation. If possible, the examiner for such assessment will be fluent in both English and the language of the student and sensitive to the cultural differences which may affect the assessment of the student. Where no bilingual examiner is available, an interpreter may be used, recognizing the additional problems inherent in interpreting data gathered in that manner.

(ii) Physical

The assessment of an individual's physical factors (including psychomotor abilities) must consist of an examination of physical conditions which directly affect the student's ability to profit from the educational process. A general medical examination is required only when specified by eligibility criteria or when abnormal physical factors have been identified as part of the assessment of physical factors. The health information collected by the referral committee is sufficient if a complete

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

medical examination is not required by specific eligibility criteria and if there are no indications of need for further physical assessment.

(iii) Emotional/Behavioral

The assessment of an individual's emotional and/or behavioral factors must consist of formally and/or informally identifying those characteristics manifested in in-school and/or out-of-school behavior which may influence learning. Data contributing to the assessment of these factors must include in-school and/or out-of-school observations and may include behavior checklists, adaptive behavior scales, student interviews, and formal projective techniques. Sources of the data may include teachers, educational diagnosticians, visiting teachers, physicians, psychologists, psychiatrists, the family, and the student.

(iv) Sociological

The assessment of an individual's sociological variables must consist of identifying the child's family and community environmental situation influencing learning and behavioral patterns. Sociological data are obtained through communication and cooperation with the family. These data may contribute to the assessment of the student's intellectual and adaptive behavior. Students are not eligible for special education if the only deficiencies identified are directly attributable to a different cultural life-style or not having had educational opportunities.

(v) Intellectual

The assessment of an individual's intellectual functioning must include an assessment of verbal ability and/or performance or nonverbal ability and adaptive behavior. Adaptive behavior is the effectiveness or degree to which an individual meets the standards of personal independence and social responsibility expected of his/her age and cultural group, both in school and away from school. The adaptive behavior of every student being considered must be assessed in some form. With the exception of assessment leading to the determination of mental retardation, minimum assessment of adaptive behavior may consist of a collection of pertinent data drawn from the assessments of emotional/behavioral and sociological factors. Intellectual functioning should be the last factor assessed, since the student's performance in this area should be analyzed and interpreted in light of all the other data.

The measured level of intelligence should be consistent with the assessment of the student's adaptive behavior; if there is wide disparity between the two, further assessment or consideration may be indicated.

(4) Assessment of Educational Performance Levels

The purpose of an assessment of educational performance levels is to enable the admission, review, and dismissal committee to determine whether or not the student has a significant educational need for special education instruction. A significant educational need is defined as a level of educational performance (either academic, developmental, or behavioral) that has been determined by local professional judgment to be significantly lower than that demonstrated by other students in the district or by other children of comparable age.

The assessment of educational performance levels will be the responsibility of certified diagnostic personnel as assigned by the school district. Such personnel may include but are not limited to the educational diagnostician, school psychologist, associate school psychologist, special education counselor, special education visiting teacher, and classroom teacher, provided each person is assigned to perform only those parts of the overall assessment for which he/she is qualified.

The minimum assessment of educational performance levels will consist of individually administered, norm-referenced measures of educational performance that are designed to assess specific areas of educational functioning. This assessment cannot be limited to measures that establish only general levels of academic functioning (i.e., reading, mathematics, and spelling). If only group-administered, norm-referenced measures are available, scores from those instruments may be used provided that other data indicate that those scores are representative of the student's classroom functioning. Additional measures of educational functioning, including developmental scales and behavioral observations, may be included in this assessment.

The assessment of educational performance levels will result in a written report indicating the presence or absence of a significant educational need, including the nature and severity of the need if present. The written report will identify the findings of all assessments, both formal and informal, and will address the degree to which these results might be influenced by the student's educational background, cultural environment, or economic status.

In instances where a student's physical, mental, or emotional disability is so severe as to make norm-referenced assessment

impossible, the written report of the assessment of educational performance levels must specify the nature and extent of the disability that makes it impossible to assess the student using norm-referenced instruments. Such a condition would constitute a significant educational need.

(5) Assessment of Learning Competencies

The purpose of an assessment of a student's learning competencies (academic or developmental) is to provide the admission, review, and dismissal committee with recommendations for specific instructional and/or learning strategies and related services that would effectively alleviate the educational need and compensate for the disability determined in stages one and two of the comprehensive assessment.

The assessment of a student's learning competencies including those related to physical education (and vocational education when appropriate) and the subsequent recommendations for educational intervention will be the responsibility of certified diagnostic personnel as assigned by the school district. These personnel may include the educational diagnostician, school psychologist, associate school psychologist, related services personnel, special education counselor, special education visiting teacher, and classroom teacher, provided each person is assigned to perform only those parts of the overall assessment for which each is qualified.

Assessments of learning competencies must include competency-based and/or criterion-referenced measures in addition to other types of assessment techniques.

The assessment of learning competencies will result in a written report and will include but not be limited to the following:

- (A) description of the competencies of the student relative to the need areas identified and
- (B) statements of suggested instructional and/or learning strategies or related services that could improve and maintain the student's present competencies.

(6) Specific Eligibility Criteria

Specific criteria for determining a potentially handicapping condition and for preparing the written report of assessment in each case are as follows:

(A) Orthopedically Handicapped Student

A student who is orthopedically handicapped is one who has been determined by a licensed physician to have a severe orthopedic impairment which adversely affects educational performance. The report of individual assessment from the physician must specify the type and severity of the impairment. The report may include a description of the functional implications of the handicapping condition for the educational process.

(B) Other Health Impaired Student

A student with a health impairment is one who has been determined by a licensed physician to have limited strength, vitality, or alertness, due to chronic or acute health problems which adversely affect educational performance. The report of individual assessment from the physician must specify the type and severity of the impairment. The report may include a description of the functional implications of the handicapping condition for the educational process.

(C) Auditorially Handicapped Student

A student who is hearing impaired is one who is determined to have a serious hearing loss even after corrective medical treatment and/or use of amplification. This determination is made by an otological examination performed by a licensed physician. The otological report specifies the type and severity of the hearing impairment. An audiological evaluation by a certified audiologist will also be conducted. This evaluation includes a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended amplification.

(D) Visually Handicapped Student

A student who is visually handicapped is one who has been determined by a licensed eye specialist either to have no vision or to have a serious visual loss after correction. The report of individual assessment from the eye specialist must specify the type and severity of impairment. For students having residual vision, a functional vision evaluation performed by an educator of the visually handicapped or other specialist in functional low vision assessment will be required. The functional vision report must include a description of the functional implications of the handicapping condition for the educational process.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

(E) Deaf-Blind Student

A student who is deaf-blind or blind nonspeaking is one who has a combination of sensory impairments determined by:

- (i) audiological evaluation (see specific eligibility requirements for auditorially handicapped)
- (ii) visual evaluation (see specific eligibility requirements for visually handicapped)
- (iii) educational assessment performed by other specialists which identifies the functional levels and behaviors of the student as appropriate

(F) Mentally Retarded Student

A student who is mentally retarded is one who has been determined by a licensed and/or certified psychologist or an associate psychologist or an educational diagnostician to be functioning more than two standard deviations below the mean on individually administered scales of verbal ability, performance or nonverbal ability, and adaptive behavior. The adaptive behavior of students ages 12 through 21 may be assessed informally according to procedures described in the section on the intelligence assessment. The report of individual assessment from the professional must specify the degree of mental retardation. This report may include a description of the functional implications of the handicapping condition for the educational process.

If mental retardation is suspected, assessment instruments must be selected from the following list approved by the Commissioner of Education:

(i) Verbal Scales	Age Range	Standard Deviation
Stanford-Binet	2+	16
Wechsler Adult Intelligence Scale (Verbal)	16+	15
Wechsler Intelligence Scale for Children (Verbal)	5-15	15
Wechsler Intelligence Scale for Children-Revised (Verbal)	6-16	15

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

(i) Verbal Scales Cont.	Age Range	Standard Deviation
Wechsler Intelligence Scale for Children-Revised (System of Multicultural Pluralistic Assessment Norms, Estimated Learning Potential)	6-16	15
Wechsler Preschool & Primary Scale of Intelligence (Verbal)	4-6	16
McCarthy Scale of Children's Abilities	2 1/2 - 8 1/2	16
(ii) Performance Scales (includes nonverbal scales)	Age Range	Standard Deviation
Arthur Point Scale	5-15	*
Columbia Mental Maturity Scale	3 1/2 - 9	16
Hiskey-Nebraska	3-16	16
Leiter International Performance Scale	2-18	*
Ravens Progressive Matrices	6-65	*
Stanford-Binet	2+	16
Wechsler Adult Intelligence Scale (Performance)	16+	15
Wechsler Intelligence Scale for Children (Performance)	5-15	15
Wechsler Intelligence Scale for Children-Revised (Performance)	6-16	15
Wechsler Intelligence Scale for Children-Revised (System of Multicultural Pluralistic Assessment Norms, Estimated Learning Potential)	6-16	15

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

(ii)	Performance Scales Cont.	Age Range	Standard Deviation
	Wechsler Preschool and Primary Scale of Intelligence (Performance)	4-6	15
	McCarthy Scale of Children's Abilities	2 1/2 - 8 1/2	16
(iii)	Adaptive Behavior Scales	Age Range	Standard Deviation
	Adaptive Behavior Inventory for Children	5-11	15
	Vineland Social Maturity Scale	0-5 only	*

*Professional judgment must be exercised in interpreting these instruments in accordance with guidelines provided in the test manuals.

Permission for the use of other tests on a pilot or experimental basis may be obtained through the Commissioner of Education. Suggestions for additions to this list may be submitted to the Commissioner of Education for approval.

(G) Emotionally Disturbed Student

A student who is emotionally disturbed is one who has been evaluated by a licensed and/or certified psychologist, a psychiatrist, or an associate psychologist under the direct supervision of a licensed and/or certified psychologist who determines that the student exhibits one or more of the following characteristics over a period of time and to a degree which adversely affects educational performance:

- (i) an inability to learn which cannot be explained by other defined handicapping conditions;
- (ii) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (iii) inappropriate types of behavior or feelings under normal circumstances;
- (iv) a general pervasive mood of unhappiness under normal circumstances; or

- (v) a tendency to develop physical symptoms or fears associated with personal or school problems.

The report of individual assessment from the evaluating professional must specify (1) the type and severity of the emotional disturbance, (2) the functional implications of the disability for situations involving instruction, (3) the degree to which in-school and out-of-school behavior reflects symptoms consistent with the diagnosis, and (4) recommendations for behavioral management in the educational setting.

Reference

Public Law 94-142 Regulations, Section 121a.5(8)

(H) Learning Disabled Student

- (i) A student who is learning disabled is one who has been determined by a multidisciplinary team not to be achieving commensurate with his/her age and ability levels. The lack of achievement is found when the student is provided with learning experiences appropriate for his/her age and ability levels in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematics calculation, mathematics reasoning, or spelling. The term does not include students whose severe discrepancy between ability and achievement is primarily the result of: a visual, hearing, or orthopedic handicap; mental retardation; emotional disturbance; or environmental, cultural, or economic disadvantage.

Reference

Public Law 94-142 Regulations, Section
121a.540-543

- (ii) The admission, review, and dismissal committee or multidisciplinary team may determine that a severe discrepancy exists as long as the membership of the team includes at least:

- (I) the student's regular teacher; or

if the student does not have a regular teacher,
a regular classroom teacher qualified to teach
a student of his/her age; or

for a pre-kindergarten child, an individual
certified to teach a child of his/her age;
and

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

(II) a person certified or trained in the area of learning disabilities; and

(III) at least one person certified by the Texas Education Agency to conduct comprehensive assessments of intellectual and educational functioning.

At least one team member other than the child's regular teacher shall observe the child's academic performance in a regular classroom setting. In the case of pre-kindergarten, a team member shall observe the child in an environment appropriate for a child of that age.

(iii) A severe discrepancy between intellectual ability and academic achievement is defined as one where the student's assessed intellectual functioning is above the mentally retarded range, but where the student's assessed educational functioning in areas specified is more than one standard deviation below the mean of the district; or where the student's assessed educational functioning in areas specified is more than one standard deviation below the student's intellectual functioning.

When a student's educational performance is below the mean of the district but consistent with the student's assessed intellectual functioning, the student is not eligible to be classified as learning disabled.

(iv) As verification of the team's decision, a written report of the evaluation will be prepared and will include but not be limited to:

(I) the results of an assessment of intellectual functioning showing that the student is not mentally retarded;

(II) the results of an individual educational assessment describing the area(s) of educational achievement in which the student is deficient and substantiating a severe discrepancy between achievement and intellectual ability and the basis for determining each;

(III) a statement of the relevant behavior noted during the observation and the relationship of that behavior to the child's educational functioning;

- (IV) a statement of educationally relevant medical findings, if any, either from the screening prior to referral or from subsequent examination if needed; and
- (V) a statement that the severe discrepancy is not primarily the result of an emotional disturbance; visual, hearing, or orthopedic handicap; cultural differences; environmental causes; or economic disadvantage.

Each team member will certify in writing that he/she either concurs or dissents with the results of the evaluation as set forth in the written report. If the report does not reflect an individual's conclusions, the dissenting member may provide a separate statement.

(I) Speech Handicapped Student

A student who is speech handicapped is one who has been determined by a certified speech and hearing therapist to have a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment. The report of individual assessment from the specialist must specify the type and severity of the impairment and will include a description of the functional implications of the handicapping condition for the educational process.

If a student receives special education services for a speech handicap only, these services will be classified as instruction. If a student receives other special education instruction and also receives services for a speech handicap, these services will be classified as related services.

(J) Autistic Student

- (i) A student who is autistic is one who has been determined by a multidisciplinary team to have disturbances of speech and language, relatedness, perception, developmental rate, and motility. The multidisciplinary team must include:
 - (I) a licensed psychiatrist or psychologist and
 - (II) a certified speech therapist and
 - (III) educational diagnostician or other student evaluation specialists licensed or certified to assess disturbances in the areas listed above.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (ii) As verification of the team's determination, a written report of the evaluation will be prepared and will include but not be limited to:
 - (I) a statement of the type, nature, and severity of the disturbance in each of the five areas;
 - (II) a description of the instruments or procedures used in the assessments;
 - (III) a statement of the functional implications of the disturbances for situations involving instruction; and
 - (IV) recommendations for instructional strategies, behavior management, parent counseling, and other related services.

Each team member signs the written report and indicates that he/she either agrees or disagrees with the results of the evaluation as set forth in the written report. A written statement of dissenting opinion(s) may be included with the written report.

(K) Multiply Handicapped Student

A student who is multiply handicapped is one who has a combination of handicaps as defined by criteria for each specific handicapping condition which results in multi-sensory or motor deficiencies and developmental lags in cognitive, affective, or psychomotor areas. The report of individual assessment from the evaluating professionals:

- (i) must specify the type and severity of the handicapping conditions,
- (ii) must include documentation that the combination of conditions results in multisensory or motor deficiencies and developmental lags in cognitive, affective, or psychomotor areas, and
- (iii) must include a description of the functional implications for the educational process.

(L) Pregnant Student

A pregnant student is one who has been determined by a licensed physician to be pregnant. The report from the

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

physician must include the estimated date of delivery and may include functional implications for the educational process.

If a pregnant student desires to remain in her regular educational setting, the school district may require the student to obtain a physician's certification that she is physically and emotionally able to continue participation in the regular education program or activity if this type of certification is required of all students for other physical or emotional conditions requiring the attention of a physician. The school district shall consider pregnancy (and conditions related to pregnancy) in the same manner and under the same policies as any other temporary disability when considering admittance to educational programs or activities. In the absence of applicable leave policies for students, the school district shall treat pregnancy and related conditions as justification for a leave of absence for a period of time deemed medically necessary by the student's physician and shall reinstate the student to the status she held when the leave began.

(7) Eligibility Criteria for Instructional Programs for the Severely Handicapped

In the determination of students having the most severe handicaps, the admission, review, and dismissal committee will decide that:

- (A) the student meets the specific eligibility criteria for one or more of the legally defined handicapping conditions;
- (B) the student's handicapping condition(s) is expected to continue indefinitely;
- (C) the student's disabilities require a comprehensive interdisciplinary program of educational and related services;
- (D) the student's disabilities seriously impair performance in three or more of the following areas of development:
 - (i) Independent mobility
 - (ii) Self-care skills
 - (iii) Communication

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

(iv) Social-emotional

(v) Cognition

(E) the specific criteria for determining seriously impaired performance are:

(i) Independent Mobility

The student is not mobile or is mobile only when supported by another individual and/or requires supervision in order to meaningfully traverse between points in the environment.

(ii) Self-care Skills

In three of the following areas, the student is unable to:

(I) feed self independently;

(II) dress self independently;

(III) indicate toileting needs; or

(IV) wash self independently.

(iii) Communication

The student uses no means of communication or uses a combination system that is not a standard symbol system or uses a symbol system without meaning or purpose or can indicate wants and needs only with provision of a structured response-producing cue.

(iv) Social-emotional

The student displays four of the following seven behaviors:

(I) is physically self-abusive without constant supervision;

(II) is physically abusive of others without constant supervision;

(III) is destructive of the environment without constant supervision;

(IV) avoids interaction with adults and/or peers;

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (V) self stimulates such that it disrupts the pursuit of purposeful activities;
 - (VI) exhibits behavior that is socially unacceptable in a less restrictive program placement; or
 - (VII) evidences such maladaptive behaviors as: acts deaf; resists learning; exhibits no real fear of dangers; maintains no eye contact; exhibits an inappropriate attachment to objects; hallucinates or exhibits serious emotional problems including but not limited to extreme depression, extreme elation, and rage.
- (v) Cognition
- The student is unable to perform five of the following seven behaviors:
- (I) reaches for and picks up an object which was partially covered as he watched;
 - (II) during a hiding game, searches systematically for the hidden object or toy; searches directly in the last place the object was hidden; or uses a systematic search pattern to find the object;
 - (III) uses an object within reach to obtain an object which is out of reach;
 - (IV) elicits assistance from other people to help obtain an object or perform a task;
 - (V) builds a three-block tower or nests a series of four cups without demonstration or moves entire body around a barrier to obtain an object removed from his visual field;
 - (VI) imitates several unfamiliar motor schemes or gestures without groping or error; or
 - (VII) uses a variety of common objects in a way that indicates knowledge of their function.

.040 Individual Educational Plan Development

The individual educational plan, which guides the provision of special education instruction and related services for each eligible

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

handicapped student, shall be developed by the admission, review, and dismissal committee according to procedures established by the Commissioner of Education.

Reasonable efforts shall be made to include the student, where appropriate, and the parent or designated parental representative of the student during all admission, review, and dismissal committee deliberations and decisions.

.040 Individual Educational Plan Development

A student receives special education services only after a comprehensive multidisciplinary team, including the parent when possible, has reviewed the data from all three stages of the comprehensive assessment; has determined that the student has a physical/mental/emotional disability establishing eligibility to receive special education services; has determined whether or not the student has an educational need significant enough to merit special education instruction; has provided an individual educational plan complete with statements of short-term objectives; long-range goals, instructional and related services to be delivered; and has provided for an educational placement in the least restrictive educational environment.

All decisions regarding the educational program of a child referred for special education consideration will be made by an admission, review, and dismissal committee.

The admission, review, and dismissal committee must make its decision regarding students referred for the first time within 30 calendar days of regular work responsibilities (exclusive of school holidays) from time of the referral committee report.

(1) The Admission, Review, and Dismissal Committee Responsibilities

(A) Each district or special education cooperative must establish at least one admission, review, and dismissal committee to perform the following functions within the special education instructional program:

(i) Review all available data. The data include:

- (I) written report(s) of all three stages of individual assessment,
- (II) current information or assessment data provided by the parent, and
- (III) any information or assessment data from other school personnel.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (ii) ensure that national origin minority group students (or linguistically different students) are not assigned to special education on the basis of criteria which were developed solely on the command of the English language;
 - (iii) ensure that students are not placed in special education if the only deficiencies identified are directly attributable to a different cultural life-style or not to having had educational opportunities or not to having achieved from previous educational experiences;
 - (iv) determine and document that the student meets the eligibility criteria;
 - (v) develop the individual educational plan or modify the existing plan;
 - (vi) make appropriate instructional placement designation;
 - (vii) review all special education assignments annually to determine continuation, change, reappraisal, or termination; and
 - (viii) develop an individual written summary of the deliberations, findings, and recommendations of each meeting of the committee. Each summary documents all assessment data considered, alternatives reviewed, any additional services discussed, and additional recommendations of individual committee members; includes the date, the names, the positions, and the signatures of the persons participating in each meeting; and is included in each student's eligibility folder.
- (B) For the pregnant student, the admission, review, and dismissal committee:
- (i) determines that the student requested special education services,
 - (ii) verifies that there is a medical diagnosis of the condition,
 - (iii) reviews current grade level(s), courses or subjects, and student programs,
 - (iv) specifies in the individual educational plan the instruction and related services to be provided by special education,
 - (v) estimates a time line for returning the student to the regular program, and

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (vi) determines a new dismissal date when the original estimate for returning the student to the regular program is exceeded. The students' child or children is/are not eligible for services of this program.
- (C) For the student new to the district, the admission, review, and dismissal committee may meet when the student registers and may determine that the student is eligible if:
 - (i) the parent(s) verify that the child is handicapped and was receiving special education services in the previous school district,
 - (ii) the previous school district verifies in writing or by telephone that the child was an eligible handicapped student,
 - (iii) placement in special education is temporary, contingent upon either receipt of valid assessment data from the previous school district or the collection of new assessment data, and
 - (iv) a second admission, review, and dismissal committee will be held within 30 days to develop an individual educational plan based on the assessment data.
- (D) For the hearing impaired student for whom the admission, review, and dismissal committee has recommended services through a regional day school program for the deaf, the initial admission, review, and dismissal committee may share responsibility for development of the individual educational plan with an admission, review, and dismissal committee composed largely of personnel from the regional day school program for the deaf.
- (E) Observe all procedural safeguards according to the requirements of Policy and Administrative Procedure 35.75.070 throughout the development of the individual educational plan.
- (2) The Admission, Review, and Dismissal Committee Membership
 - (A) The committee may include representation from a variety of individuals; however, the committee will be composed of the following persons in determining its actions:
 - (i) at least three members, representing the areas of administration, instruction, and assessment (including at least one representative of special education);

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (ii) designated educational liaison;
 - (iii) the student's parent or designated parental representative; and
 - (iv) the student, where appropriate.
- (B) When considering individual educational plan development for a handicapped student where vocational education subjects or courses are being considered, the following must be documented:
- (i) A vocational education assessment has been completed.
 - (ii) The vocational teacher who will instruct the student, the vocational administrator or instructional officer supervising vocational programs or his/her designee, and a counselor are included on the admission, review, and dismissal committee.
- (C) When considering individual educational plan development for a hearing impaired student to be served through a regional day school program for the deaf, the admission, review, and dismissal committee may be composed largely of personnel from the regional day school program for the deaf, so long as copies of all available assessment data and admission, review, and dismissal summary of deliberations have been forwarded from the student's school district of residence to the regional day school program for the deaf for use in developing the individual educational plan.
- (D) Where handicapped students are eligible for other compensatory education programs such as Title I, migrant education, and bilingual education, professional staff members from the respective compensatory programs should participate in the admission, review, and dismissal committee meetings and jointly agree to program goals, objectives, teaching strategies, and scheduling.
- (E) Reasonable efforts must be made to ensure that the student's parent or designated parental representative is present at each meeting of the admission, review, and dismissal committee or is afforded an opportunity to participate. This effort includes notifying the parent of the meeting early enough to ensure that he/she will have an opportunity to attend and scheduling the meeting at a mutually agreeable time and place. If neither parent can attend, the district will use other methods to ensure parent participation, including individual or conference telephone calls.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

A meeting may be conducted without a parent in attendance if the district is unable to convince the parent that he/she should attend. In this case, the district must have a record of its attempts to arrange a mutually agreeable time and place. This documentation includes detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parent and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits.

Documentation should indicate extent of parent participation in the individual educational plan development and parent agreement or disagreement with admission, review, and dismissal committee action.

If a parent is identified but unavailable or refuses to participate in an admission, review, and dismissal committee meeting, the school district may proceed with its responsibilities for planning and educating a handicapped student. The school district must document its efforts to contact or include the parent.

If a parent refuses or otherwise does not give consent prior to the initiation of formal evaluation procedures or for initial special education program placement, the school district first ensures with all reasonable effort that the parent understands the proceedings and understands his/her rights. Then the school district makes attempts to come to agreement with parents, pursues mediation, or may pursue other legal action as authorized by other sections of the Texas Education Code, the Texas Family Code, or applicable federal statutes and regulations.

NOTE: Handicapped students are subject to the provision of Compulsory Student Attendance as authorized by Texas Education Code 21.032 and .033 and State Board of Education Policies 23.04 and 51.02.
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(3) The Admission, Review, and Dismissal Process

In accordance with procedures established by the Texas Education Agency, each school district or cooperative will develop and implement procedures by which a student, having been comprehensively assessed upon referral to special education, is determined to be or not to be eligible for special education services and by which personnel are assigned the responsibility of accumulating the written reports from the three stages of individual assessment. The admission, review, and dismissal of a student to or from special education services will proceed according to an orderly process where, upon initial admission,

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

the instructional program is reviewed at least quarterly, where the placement is reviewed at least annually, where the student's eligibility for special education services is comprehensively reevaluated at least once every three years, and where a student can be dismissed from such services when it is found that the student is no longer eligible for such services. Complete written reports of all three stages of the individual assessment will be collected for review by the admission, review, and dismissal committee.

The school district will maintain an eligibility folder on each special education student in addition to a student academic record required in State Board of Education Policy 2306.3. The eligibility folder must include, but not be limited to, copies of: referral committee report, documentation of notices and consents; assessment reports, supporting data, and summaries; admission, review, and dismissal committee deliberations; and the individual educational plan and quarterly reviews.

If the parent of the student has disagreed with the comprehensive assessment obtained by the school district, he/she may request an independent assessment at public expense. If the parent feels that assessment information is incomplete, he/she may request the school district to seek additional information. If the school district maintains that the parent's request is inappropriate, a hearing may be held in accordance with Policy and Administrative Procedure 35.75.070. If the final decision is that the district's assessment was appropriate, the parent still has the right to an independent assessment, but not at public expense. Any new information must be considered along with previously collected data at another meeting of the admission, review, and dismissal committee.

If students have been placed in special education prior to the adoption of this regulation on the basis of selection procedures which are not in compliance with current law, policies, or procedures, it is the responsibility of the school district to make such determination by the time of the student's annual review by the admission, review, and dismissal committee. The admission, review, and dismissal committee must establish time lines with specific milestone dates by which the students will be returned to the responsibility of regular education. Students not meeting current eligibility criteria will be considered by the referral committee for special transitional services. It is the responsibility of the school district to provide special transitional services to the students as they are gradually moved back into regular programs with no loss of credits or no other penalties. The school district may provide these transitional services from a variety of funding sources.

(4) Content of the Individual Educational Plan

The individual educational plan developed by the admission, review, and dismissal committee for each student includes:

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (A) A statement of the student's present competencies taken from the assessment data. This brief statement includes:
 - (i) the competencies of the student in academic content areas. If the student is functioning at pre-academic levels, there must be a statement of developmental skills.
 - (ii) the physical abilities and disabilities exhibited by the student which would affect his/her participation in instructional settings and/or in physical education and leisure time activities
 - (iii) the behaviors demonstrated by the student which affect his/her educational programming
 - (iv) the skills demonstrated by the student (particularly at the secondary level) which may be prerequisite to participation in vocational education
- (B) A statement of annual goals and short-term instructional objectives. All goals and objectives are stated within the context of a planned, sequential curriculum and with consideration for the student's needs in both content and developmental areas.

Annual goals are broad statements of the highest educational priorities identified for the student for the current program year.

Short-term instructional objectives are measurable intermediate steps designed to lead the student to achievement of the annual goals. While these objectives will be more specific than the annual goals, it is not intended that they be as specific as the teacher's daily or weekly lesson plans for the student. The statement of each objective will be accompanied by a designation of the person or persons responsible for implementing activities designed to help the student achieve the objective and may include a statement of any special materials, resources, or methods which should be used in achieving the objective.

- (C) A statement of the specific educational services to be provided for the student, including regular education, special education, and related services. The services provided will be directly related to the stated goals and objectives. Services will be

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

provided within the least restrictive environment appropriate for the student.

- (D) A statement of the amount of time to be spent in each setting, the projected dates for initiation of services, the anticipated duration of the services, and the justification for the provision of each service
- (E) A statement of the schedules and criteria for evaluating each short-term objective
- (F) Signatures of the committee members present and an indication of each member's consent or dissent with the decisions. Decisions must be supported by at least a majority of the required membership of the admission, review, and dismissal committee.
- (G) For the pregnant student, the individual educational plan addresses any special provisions or modifications of the regular program needed as a result of the pregnancy and identifies the instruction and related services to be provided through special education.
- (H) For the student in residential placement, the individual educational plan will specify the special education instruction time per student per day decided on an individual basis by the admission, review, and dismissal committee. The student's individual educational plan includes, as necessary, programming to be provided within the residential component in support of the approved educational program.

(5) Educational Program Placements

The educational program placement may include:

- (A) programs operated by the district (These programs include regular classrooms, resource, self-contained, itinerant, and other approved instructional options.);
- (B) programs operated cooperatively with other districts;
- (C) programs operated by other districts, approved regional education program services, and regional day school for the deaf programs;
- (D) contracts with approved nonpublic schools, where the student resides with the parent or guardian on a day-by-day basis;

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (E) approved educational programs operated by or under the supervision of other units of state government;
- (F) contracts with approved private residential schools in the state; and
- (G) contracts with approved private residential schools out of the state.

.050 Individualized Instruction

Individualized special education instruction is the day-to-day instruction provided to a handicapped student based on the objectives set forth in the student's individual educational plan.

The program of individualized instruction shall be consistent with the needs of the handicapped student in the context of a defined curriculum.

.050 Individualized Instruction

The program of individualized instruction for each handicapped student consists of the following essential elements:

- (1) specific instructional objectives based on student needs as stated in the individual educational plan;
- (2) learning activities appropriate to each student's learning style and presented as specifically and sequentially as needed for the student to progress toward attainment of each instructional objective;
- (3) instructional media and materials used for each learning activity selected on the basis of the student's learning style;
- (4) an instructional setting which provides multiple arrangements for learning;
- (5) a schedule of teaching personnel time assuring the provision of instruction to each student in individual or group arrangements; and
- (6) procedures by which the teaching personnel measure, record, and report each student's progress.

Information is maintained documenting the provision of an individualized instructional program for each student currently being served.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

.060 Related Services

The admission, review, and dismissal committee shall designate the needed related services in the individual educational plan for each eligible handicapped student following Administrative Procedures in 35.72 and in accordance with Administrative Procedure 35.73.

.060 Related Services

(1) Definition

Related services which are developmental, corrective, supportive, or evaluative services not instructional in nature are provided the handicapped student if the student's individual educational plan reflects: the service needed, who will provide the service, how long the service will be provided, how the service will be evaluated, and the anticipated benefit to the student.

(2) Service Delivery System

The related services which may be provided are:

- (A) Art Therapy
- (B) Audiological Services
- (C) Corrective Therapy
- (D) Counseling Services
- (E) Drama Therapy
- (F) Medical Diagnostic Services
- (G) Music Therapy
- (H) Occupational Therapy
- (I) Orientation and Mobility Training
- (J) Physical Therapy
- (K) Psychological Services
- (L) Recreation Therapy
- (M) School Health Services
- (N) Social Work Services
- (O) Special Transportation

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (P) *Speech Therapy*
- (Q) *Vision Training*
- (R) *Provision of Adaptive Equipment*
- (S) *Other Related Services (subject to written approval of the Texas Education Agency)*

(3) Eligibility Criteria

Eligibility of a special education student for any one of the related services will be determined by the admission, review, and dismissal committee based on:

- (A) *a written report or evaluation from registered, certified, or licensed related services personnel identifying the student's problems and the degree of severity as might affect the student's ability to benefit from instruction;*
- (B) *evidence in the individual educational plan that any and all related services to be received by a special education student are integrated into the total individual educational plan for the student; and*
- (C) *medical referral for a specific related service (when such is required by the discipline and/or personnel to be providing the related service).*

.070 Individual Educational Plan Review

Each school district and other agencies providing educational programs or services to eligible handicapped students shall establish, according to procedures set forth by the Commissioner of Education, a system for reviewing each handicapped student's progress based on the objectives stated in the student's individual educational plan.

.070 Individual Educational Plan Review

Each student's individual educational plan will be periodically reviewed to determine the student's progress, the need for modifying the plan, and the student's continued need for special education services.

(1) Three-Month Review

Each agency will establish procedures and assign personnel responsibilities for conducting, at least every three months after initial placement in special education, an informal review of each handicapped student's progress according to objectives identified in the individual educational plan.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

All persons involved in the implementation of the student's individual educational plan will be directly involved in the review in some way with documentation of that involvement recorded in the student's file. At the time of the review, objectives may be modified in accordance with the evaluation of the student's progress.

Recommendations for major changes in the individual educational plan, including changes in the student's placement, must be made to the admission, review, and dismissal committee for formal action. Otherwise, no admission, review, and dismissal committee action is needed until the time of the annual review.

(2) Annual Review

(A) The admission, review, and dismissal committee must review at least annually each handicapped student's progress according to the goals and objectives stated in the individual educational plan. Criteria and estimated time lines for dismissal from special education and return to regular education are developed by the admission, review, and dismissal committee for each student no later than at the first annual review of the individual educational plan. The committee will consider:

- (i) the appropriateness of the long-range goals and short-term educational objectives as indicated by the documented progress of the student;
- (ii) the appropriateness of the student's educational program placement as it relates to the student's progress;
- (iii) the appropriateness of the related services, if any, as they relate to the student's progress;
- (iv) the need for referral for additional assessment; and
- (v) the need for a change in the student's placement in special education including dismissal.

Changes or additions to the individual educational plan shall be made and recorded as a result of these considerations.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

(B) Decisions concerning changes in a student's placement in special education are made when the admission, review, and dismissal committee determines in its review:

- (i) that the student is in need of a special education placement other than that initially designated or
- (ii) that the student is no longer in need of special services and should be dismissed from special education.

(3) Three-Year Review

At least once every three years on or before the anniversary date of the student's initial placement in special education, the admission, review, and dismissal committee shall base its review decisions on new individual assessment information. The professionals responsible for assessing each general area of the student's functioning and for determining the handicapping condition shall then determine and document the degree to which new assessment in each area is necessary. The admission, review, and dismissal committee may request additional information in any area.

(4) Release from All Educational Services

All the following conditions must be met before a school district releases a handicapped student from educational services:

- (A) Upon completion of comprehensive student assessment, including formal and informal procedures for instruction and/or related services needs, the admission, review, and dismissal committee determines that the student fails to respond to efforts of the district to provide educational services, and further attempts are considered inappropriate or inconsistent with the child's best interest.
- (B) The district documents that a number of instructional options have been attempted, including any specialized services that may be available on a regional, multi-regional, or statewide basis, and none of these has been deemed appropriate in meeting the educational needs of the handicapped student.
- (C) The student's parent(s) has been counseled and agrees with the decision of the admission, review, and dismissal committee to release the student from all educational services.

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

- (D) The direction service component of the regional education service center documents efforts in locating services provided by other state agencies or community organizations that may be beneficial to the handicapped student and his/her family.
- (E) The school district or special education cooperative currently serving the student agrees to annually review its decision until the student is 21 years of age and is referred for vocational rehabilitation services unless:
 - (i) the annual review is prevented because the student, the student's parent, or the designated parental representative refuses services or refuses the periodic review,
 - (ii) the student is no longer present in the state or cannot be located, or
 - (iii) the student has a medical condition that is rapidly debilitating or terminal.

Reference

Sections 21.033(2) and 11.091(f), Texas Education Code

(5) Suspension or Movement to a More Restrictive Environment

A student may be temporarily moved to a more restrictive environment or suspended if the student's behavior warrants such action. In the case of suspension, there has been prior consultation with a special education teacher or special education support person. When moving the student to a more restrictive environment or when suspending a student, the admission, review, and dismissal committee documents as soon as possible that:

- (A) the student's behavior was not caused by the handicapping condition and
- (B) adjustments in the student's individual educational plan, including alternative educational placements, have been considered in an attempt to prevent recurrence of the undesired behavior.

Due process must be provided. The school district is not relieved of its responsibility to provide educational services to an eligible handicapped student except when

35.72 CHILD-CENTERED EDUCATIONAL PROCESS (continued)

a student is incarcerated or released from all educational services in accordance with Administrative Procedure 35.72.070(4). The admission, review, and dismissal committee is responsible for the individual educational plan development for a suspended student.

35.73 THE SPECIAL EDUCATION PROGRAM

.010 Definition and Purpose

The provision of a Comprehensive Special Education Program for eligible handicapped students is mandated by constitutional and statutory law. Each school district must fulfill this responsibility for its handicapped students in order to receive and maintain accreditation from the Texas Education Agency.

The Texas Education Agency, as authorized by law, shall ensure that the education of eligible handicapped students is provided by other agencies of public education.

The Comprehensive Special Education Program elements which follow are assigned by law to be administered by the Texas Education Agency:

- (1) The Basic Program
- (2) The Regional Day School Program for the Deaf
- (3) Comprehensive Services for the Visually Handicapped
- (4) The Texas School for the Blind and the Texas School for the Deaf
- (5) Education Service Center Services

.010 Definition and Purpose (See Policy 35.73.010)

.020 The Basic Special Education Program

The basic special education program provides for the coordinated use of special education personnel, services, and facilities to ensure the availability of a Comprehensive Special Education Program for each eligible handicapped student. This coordination includes providing the opportunity for handicapped students to participate in educational programs and activities with nonhandicapped students.

The goals of the program include student development, organizational efficiency, and accountability.

The basic special education program has the following components:

- (1) Curriculum Format
- (2) Instructional Options
- (3) Personnel
- (4) Special Services

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(5) Facilities

(6) Management System

Reference

Section 16.104, Texas Education Code

.020 The Basic Special Education Program

Provisions concerning the basic special education program are contained in .021 through .026.

.021 Curriculum and Instruction

(1) Curriculum Format

- (A) Curriculum and instruction for handicapped students provide opportunity for the acquisition of knowledge and skills in the basic areas of learning:
 - (i) in the regular education program with special education instructional support or
 - (ii) by completion of a planned special education curriculum.
- (B) The framework for curriculum provides an identified continuum of skills to be learned from pre-kindergarten through secondary program completion.
- (C) It provides for modification of the instructional program and process based on individual student needs.
- (D) Curriculum and instruction, including physical education, for the handicapped student (pre-kindergarten through completion of prescribed courses) varies from the general curriculum only in modification necessary for the individual student.
- (E) The school district physical education program of instruction provides for unrestrictive, restrictive, adapted, and remedial activities.
- (F) The vocational adjustment class is considered a multi-occupational program and is operated jointly with the office of occupational education and technology.

(2) Instructional Options and Minimum Instructional Time

Each handicapped student will have available a six-hour instructional day as is provided all other students. The

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

admission, review, and dismissal committee may determine the length of the instructional day for each handicapped student based on the individual educational plan.

The special education teacher may serve students in any combination of instructional options during any given semester. The Comprehensive Special Education Program will have available the following instructional options.

(A) Itinerant

The teacher serves on two or more campuses.

The student receives a minimum of one hour per week of special education instruction.

(B) Resource/Team Teaching

The teacher is assigned to one or more teaching stations on the same campus.

The student receives a minimum of one-half hour per day of special education instruction.

(C) Homeroom/Special Education Departmentalized

The teacher is assigned to the same teaching station on the same campus or shares the teaching station with other special education instructional personnel.

The student receives more than three hours per day of special education instruction.

(D) Classes for Severely Handicapped Students

The teacher is assigned to a class with a minimum of three students.

The teacher has assigned two or more teacher aides.

There is provision for two or more related services exclusive of special transportation and adaptive equipment on a regularly scheduled basis.

The student receives a minimum of three hours per day of special education instruction exclusive of the time provided for related services.

The program may be approved for 220 days of instruction on application to the Texas Education Agency.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(E) Vocational Adjustment Class

The teacher is assigned to one or more campuses.

The student in part-time job training/employment less than four hours per day receives a minimum of one hour of daily instruction from special education instructional personnel.

The student in full-time job training/employment more than four hours per day receives as a minimum a total of one hour per week instruction from special education instructional personnel.

(F) Community Class/Residential Supplemental Unit Class/Hospital Class

The teacher is assigned to a teaching station in a facility not operated by a school district.

The student receives a minimum of three hours per day of special education instruction.

(G) Homebound/Hospital Bedside Instruction

The teacher is assigned a teaching station in the student's home or hospital room.

The student receives a minimum of four hours per week of special education instruction.

Students who are confined to home or hospital for four or more consecutive weeks as documented by the attending physician will be provided Homebound/Hospital Bedside Instruction.

NOTE: Students who can achieve in the regular education instructional program with special education instructional support are generally programmed in the instructional options for Itinerant or Resource/Team Teaching. Students who are expected to complete a planned special education instructional curriculum are generally programmed in instructional options for Homeroom/Special Education Departmentalized Classes for Severely Handicapped or Vocational Adjustment Class. Students in either curriculum format may be served in instructional options for Community Class/Residential Supplemental Unit Class/Hospital Class or Homebound/Hospital Bedside Instruction. When school districts choose other instructional options for students, the curriculum format must be determined prior to the students' placement.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(3) Other Instructional Options

When the admission, review, and dismissal committee determines an instructional option other than one listed in Administrative Procedure 35.73.021(2) is required as documented in the student's individual educational plan, the following are considered:

- (A) Contracts with other school districts
- (B) Multi-district, education service centers, or multi-regional programs
- (C) Regional Day School Program for the Deaf
- (D) Nonpublic school contracts - day school
- (E) State residential schools
- (F) Contracts with approved nonpublic schools - residential
- (G) Other instructional options as approved by the Texas Education Agency

.022 Related Services

(1) Definition

Related services are those developmental, corrective, supportive, or evaluative services not instructional in nature that may be required for the student to benefit from the instructional program and to fulfill the requirements of the student's individual educational plan.

The related services identified in the student's individual educational plan are provided first from the district's student services (See Policy 34.11.010) which are available to all students and next from the district's own special education personnel prior to using other sources.

(2) Implementation Strategies

The strategy for delivery of related services within the local education agency should depend on:

- (A) the type of service necessary for implementation of the individual educational plan and

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (B) the availability of needed related services personnel in the geographic area served by a given school district or within an education service center region.

(3) District Alternatives for Provision of Related Services

Provision for receiving related services is determined by the admission, review, and dismissal committee as reflected in the student's individual educational plan.

The ratio of related services personnel to students should be determined by the type or intensity of services designated in the individual educational plan.

Alternatives to be considered by the admission, review, and dismissal committee for delivery of related services to eligible special education students should include but not be limited to:

- (A) use of related services personnel as consultants to instructional staff for service to individual students or groups of students;
- (B) use of related services personnel to provide direct services for individual students or small groups;
- (C) provision of either consultant or direct services by a school district within its own district to cover that district only, in a cooperative effort with other school districts, in a joint effort with the education service center, or in a cooperative effort with other public and private agencies; and
- (D) involvement, where appropriate, of related services personnel in the evaluation procedure and in the development and implementation of the individual educational plan.

(4) Adaptive Equipment

Adaptive equipment is any type of device or aid used to adapt conditions to improve the student's functioning after all necessary medical treatment, surgery, and/or use of prostheses have been made which facilitate specific objectives of the individual educational plan.

Special seats are any type of special chair or seating equipment which will enhance the learning situation and/or

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

enable an eligible student to maximally participate in classroom activities. A student is eligible for special seats if the student is unable to utilize the classroom chairs or desks provided by the local school district; or the admission, review, and dismissal committee:

- (A) has established a need or
- (B) has medical evidence that special seats are required for classroom.

Electronic communication services are services provided for an eligible student confined to the home, which will enable the student to receive instruction along with classmates and/or be able to participate in class discussions.

The service may be a type of telephone setup or other electronic communication system. A student may be provided electronic communication services if the student is eligible for homebound instruction and needs the service for five months or more of the school year. [Refer to Administrative Procedure 41.21.020 (7) (A).]

(5) Special Transportation

Each school district operating an approved special education program is allotted a transportation allowance for transporting eligible handicapped students who are unable to attend the public school unless such special transportation is provided.

A special education student's home school is considered to be the one to which the student is assigned for special education purposes.

If the student can utilize regular transportation and is eligible for regular transportation, such transportation is made available.

Students unable to utilize regular transportation are provided special transportation to assist them to receive educational services. The admission, review, and dismissal committee:

- (A) establishes the student's eligibility for special education services;
- (B) establishes the student's need for special transportation;
- (C) determines the type and kind of special transportation needed, with written approval of the parent; and

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (D) makes application according to the procedures established by the Texas Education Agency.

.023 Special Education Personnel

(1) District Personnel

The school district may employ the following special education personnel as provided in the Texas Public Education Compensation Plan.

(A) Special Education Teachers

(i) Definition

Special education teachers are those professional personnel who hold valid Texas special education teaching certificates or endorsements and are contracted for and assigned the responsibility for carrying out instruction to eligible handicapped students.

(ii) Assignment

Special education teachers are assigned to special education instruction on a full-time basis or a part-time basis. Full-time personnel are those contracted personnel who render a service on a full-time, daily basis. If the assignment is less than a full-time basis, only that part where the person is assigned to special education is paid from special education funds.

Teachers reimbursed from special education funds hold special education certification or endorsements and demonstrate the necessary skills for the particular assignment. In the event a teacher lacks skills and knowledge in working with the unique needs of students assigned, e.g., severely handicapped students, the superintendent will make provisions for the teacher to gain the skills and knowledge needed or to acquire additional endorsements. The plan for acquiring the new skills and knowledge will be a part of the teacher's personnel record and will be completed within two years from the date of original assignment if that assignment is continued.

(iii) Certification

Teachers holding special education certificates or endorsements may be assigned to any level of a basic special education instructional program serving students ages 3 through 21 years. The generic special education endorsement is considered the basic all-grade-level/all-category certificate. Exceptions are as follows:

- (I) Teachers assigned to provide speech therapy services hold certificates in speech and hearing therapy.
- (II) Teachers holding only a special education endorsement for Early Childhood Education for Handicapped Children may be assigned only to programs serving three-, four-, five-, and six-year-old students.
- (III) Teachers assigned full time to a program for pregnant students prior to the school year 1978-79 who hold a valid Texas Junior High or High School Certificate may continue in that assignment. (A valid Texas Elementary Certificate may be substituted for the Junior High or High School Certificate requirement if the students are on elementary levels.)

Teachers assigned to this program beginning with the 1979-80 school year will hold a valid special education certificate or endorsement.

- (IV) Teachers assigned full time to teaching students who are orthopedically handicapped or other health impaired with the teaching station in the home or a hospital are not required to hold a special education certificate/endorsement as long as the personnel file contains an official transcript indicating that the teacher has completed a three-semester-hour survey course of handicapped children's education and three semester hours directly related to teaching physically handicapped children.
- (V) Teachers certified in deficient vision will be available to students who are visually handicapped through one of the school district's

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

instructional options or a cooperative arrangement with other school districts or the education service center.

- (VI) Special education instructional personnel may be used to provide adapted and remedial physical education activities when certified in both physical education and special education.

(iv) Minimum Number

A minimum of 65% (or rounded to the nearest whole) of the personnel units utilized for special education will be special education teachers. In unusual circumstances application may be made annually to the Texas Education Agency for waiver of this standard.

(v) Extended Contracts for Special Education Teachers

Special education teachers may be employed for 11 or 12 months only for the purpose of providing instruction to handicapped students for whom the disruption of continuous service results in severe regression of knowledge and skills gained.

Extended contracts may be provided for the special education teachers in the:

- (I) Vocational Adjustment Class with a minimum of 10 students in full-time job training/employment;
- (II) Community Class/Residential Supplemental Unit Class/Hospital Class with a minimum of six full-time students;
- (III) Homebound/Hospital Bedside Instruction with a minimum of five full-time students;
- (IV) Classes for Severely Handicapped with a minimum of three full-time students; and
- (V) Homeroom/Special Education Departmentalized Class with a minimum of eight students. (In the Homeroom/Special Education Departmentalized Class, the curriculum includes the design for the completion of a planned special education program.)

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(B) Special Education Professional Support Personnel

(i) Definition

Special education professional support personnel are those non-instructional personnel who render full-time or part-time services to the special education program in support of the instructional program, related services program, and student evaluation services, or provide related services or student evaluation services to eligible handicapped students, or direct and/or supervise the total program.

Support personnel are identified as: special education directors, special education supervisors, special education counselors, special education visiting teachers, psychologists, and educational diagnosticians. Other student evaluation specialists are physical education evaluation specialists and vocational education evaluation specialists.

(ii) Assignment

(I) Special Education Director

The primary purpose of the special education director is to perform administrative and managerial duties as needed to fully implement a comprehensive special education program. The director assumes responsibility for coordinating all facets of the special education program, including referrals of special education students to and from other agencies in order to allow a smooth transition from one service to another.

(II) Special Education Supervisor

The primary purpose of the special education supervisor is to provide leadership in the instructional program which includes coordination, appraisal, and instruction.

(III) Special Education Counselor

The primary purpose of the special education counselor is to provide student and parent counseling, individually and in groups, concerning problems resulting from the student's

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

handicapping condition. The special education counselor serves as liaison between parent, school, and community agencies; may assist in the collection and analysis of appraisal data pertaining to sociological variables; and is a part of the total school guidance program.

(IV) Special Education Visiting Teacher

The primary purpose of the special education visiting teacher is to provide liaison between the school, home, and community. The special education visiting teacher may also assist in the collection and analysis of appraisal data pertaining to sociological variables.

(V) School Psychologist

The primary purpose of the school psychologist is to serve on the assessment team.

The responsibilities of the school psychologist may include conducting comprehensive individual assessments of students referred for special education placement, including comprehensive assessment of emotional/behavioral factors; interpreting information about student behavior and conditions related to learning; participating in the development of individual educational plans; consulting with teachers, support professional personnel, parents, and community agencies concerning prevention and/or intervention strategies relating to learning and behavioral problems of students; and planning and managing a program of psychological services, including psychological counseling for students and parents.

(VI) Associate School Psychologist

The primary purpose of the associate school psychologist is to serve on the assessment team.

The responsibilities of the associate school psychologist may include any of the activities described for the school psychologist, except that the associate school psychologist must be directly supervised by a licensed or certified psychologist when conducting comprehensive assessments of emotional/behavioral factors which may lead to the classification of emotional disturbance.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(VII) Educational Diagnostician

The educational diagnostician is responsible for the assessment of intelligence and of educational functioning and for the collection and analysis of data pertaining to sociological variables for the student.

Educational diagnosticians may provide consultation to teachers, parents, other support personnel, and community agencies and for individual educational plan implementation and for strategies for learning.

(VIII) Physical Education and Vocational Education Evaluation Specialists

Student evaluation specialists are physical education evaluation specialists and vocational education evaluation specialists.

The physical education evaluation specialist is responsible for determining the physical education needs of the student and making recommendations for instructional consideration to the admission, review, and dismissal committee. The special education physical education evaluation specialist is certified in both physical education and special education.

The vocational education evaluation specialist is responsible for determining vocational educational needs of the student and making recommendations for vocational education instructional consideration to the admission, review, and dismissal committee. The special education vocational education evaluation specialist is certified in both vocational education and special education.

(iii) Certification

Professional support personnel are certified in the area of assignment. If the professional is assigned other duties and responsibilities of other special education support professional positions, the professional assigned is certified for all duties assigned.

In the event a professional support person does not have the skills and knowledge needed for the assignment, the superintendent will make provision for the person to acquire the skills and knowledge.

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(iv) Minimum Number

Each special education teacher will have the services of a special education supervisor and an educational diagnostician available.

(v) Extended Contracts

Support personnel may be employed for 11 or 12 months for the purpose of:

(I) providing direct service or

(II) student evaluation.

(C) Special Education Related Services Professional Personnel

(i) Definition

Related services personnel are art therapists, audiologists, corrective therapists, counseling services personnel, drama therapists, medical diagnostic services personnel, music therapists, occupational therapists, orientation and mobility instructors, physical therapists, psychological services personnel, recreation therapists, school health services personnel, social workers, speech therapists, and visual trainers.

(ii) Assignment

The primary purpose of related services personnel is to implement services for the handicapped student as identified in the student's individual educational plan. In the case of physical therapy and corrective therapy, students are medically referred.

The related services personnel may perform assessments for which trained; provide input to the admission, review, and dismissal committee in its deliberations; provide input into the individual educational plan development; and provide consultation to teachers, aides, and parents for individual educational plan implementation, maintenance, and evaluation.

(iii) Related Services Descriptions and Professional Personnel Certification

The following are service descriptions and required certification of the special education related services professional personnel who may be employed by the school district as provided by the Texas Public Education Compensation Plan:

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(I) Art Therapy

Art therapy is the use of various art forms in the amelioration of educationally handicapping disabilities. Art Therapy provides the opportunity for nonverbal expressions and communication.

Art therapy is provided by a professional who holds registration by the American Art Therapy Association.

(II) Audiological Services

Audiological services include the identification of children with hearing loss; determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; provision of habilitative activities such as language habilitation, auditory training, speech-reading (lip reading), hearing evaluation and speech conservation; creation and administration of programs for prevention of hearing loss; counseling and guidance of students, parents, and teachers regarding hearing loss; and determination of the student's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

Audiological services are provided by a professional who holds certification as an audiologist by the American Speech and Hearing Association.

(III) Corrective Therapy

Corrective therapy is the application of principles, tools, techniques, and psychology of medically oriented physical education to assist the physician in the accomplishment of prescribed objectives.

Corrective services are provided by a professional who holds a valid Texas teaching certificate with an academic specialization in physical education, institutional verification of a minimum of 400 hours of clinical experience in working with handicapped individuals, and certification issued by the American Board for Certified Corrective Therapy.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(IV) Counseling Services

Counseling services are services provided to assist students in understanding their special needs and to help them learn appropriate behavior skills. Counseling services are services also provided parents to assist them in understanding their child's special needs, including the educational process.

The professional provides counseling services in the area of specialization and holds a valid Texas Education Agency certificate as a counselor, visiting teacher, school psychologist, or associate psychologist, or licensure or certification by the Texas State Board of Examiners of Psychologists as a psychologist or associate psychologist, or as a licensed physician with a specialization in psychiatry, or a social worker who holds a master's degree in social work from a recognized institution of higher education.

(V) Drama Therapy

Drama therapy is the use of creative arts and role playing in the amelioration of educationally handicapping conditions.

Drama therapy is provided by a professional who holds a valid Texas teaching certificate with an academic specialization in drama education and special education certification or endorsement.

(VI) Medical Diagnostic Services

Medical diagnostic services are services provided by a licensed physician to determine a child's medically related condition which may result in a need for special education and related services.

Medical diagnostic services are provided by a professional who holds Texas licensure as a physician.

(VII) Music Therapy

Music therapy is the use of music learning experiences specifically designed to modify inappropriate behavioral patterns and ineffective learning patterns.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

Music therapy is provided by a professional who is registered by the National Association for Music Therapy.

(VIII) Occupational Therapy

Occupational therapy services include the evaluation, consultation, and/or direct services to individuals whose ability to cope with the tasks of living and learning is threatened or impaired by developmental deficits, environmental or sensory deprivation, physical injury, illness, psychological or social disability.

Occupational therapy is provided by a professional who holds certification by the American Occupational Therapy Association and a graduate of a university program accredited by the American Occupational Therapy Association and the American Medical Association.

(IX) Orientation and Mobility Instruction

Orientation and mobility training encompasses the art and science of presenting to the visually handicapped individual those aids, methods, services, and skills which enable individuals to move from one place to another with confidence, safety, and purpose. "Mobility" in this context is the act of moving, while "orientation" is that awareness of pertinent factors in the environment which enables the person with partial or total visual impairment to react, move, and travel in an appropriate and purposeful manner.

Orientation and mobility instruction is provided by a professional who holds a minimum of a bachelor's degree with a major in the field of orientation and mobility instruction and a certificate by the American Association of Workers for the Blind.

(X) Physical Therapy

Physical therapy is the art and science of evaluation, program planning, and implementation of physical or corrective conditions resulting from birth, illness, or injury. Physical therapy includes therapeutic exercise programs designed to develop or restore neuromuscular and/or sensorimotor function, relieve pain, control postural deviations, minimize disabilities, and

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

maintain maximal performance levels within the individual's capabilities.

Physical therapy is provided by a professional who holds licensure by the Texas Board of Physical Therapy Examiners.

(XI) Psychological Services

Psychological services include: administering psychological and educational tests and other assessment procedures; interpreting assessment results; and obtaining, integrating, and interpreting information about student behavior and conditions relating to learning.

Psychological services are provided by a professional who holds a license or certificate from the Texas State Board of Examiners of Psychologists as a psychologist or associate psychologist or a Texas Education Agency certificate as a school psychologist or an associate school psychologist.

(XII) Recreation Therapy

Recreation therapy is a process which utilizes recreation services for purposeful intervention in some physical, emotional, and/or social behavior to bring about a desired change in that behavior and to promote the growth and development of the individual. (The term may include therapeutic, dance, music, drama, and leisure therapies.)

Recreation therapy is provided by a professional who holds a valid Texas teaching certificate with an academic specialization in physical education and special education certification or endorsement.

(XIII) School Health Services

School health services include: screening and referral for health needs; monitoring medication needed by students during school hours; consultation with physicians, parents, and staff regarding effects of medication, and emergency care training for staff and parents; counseling with handicapped students and their families concerning health care practices and services;

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

and identifying local health service resources. These services are in addition to those provided to all other students. (Reference Policy 34.11 and 34.13)

School health services are provided or supervised by a registered nurse with or without a bachelor's degree or provided by a licensed physician.

(XIV) Social Work Services

Social work services include: preparing a social or developmental history about a handicapped student; group and individual counseling with the student and family; working with those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; and mobilizing school and community resources to enable the student to receive maximum benefit from the student's educational program.

Social work services are provided by a professional who holds a master's degree in social work from a recognized institution of higher learning or a bachelor's degree from a recognized institution of higher learning, who is supervised by a social worker with a master's degree (MSSW) or a Texas Education Agency certified school psychologist, visiting teacher, or counselor.

(XV) Speech Therapy

Speech therapy is the identification and instruction of children with speech or language disorders, the diagnosis and appraisal of specific speech or language disorders, and the referral for medical or other professional attention.

Speech therapy is provided by a professional who holds a valid Texas Education Agency certificate as a speech and hearing therapist.

(XVI) Visual Training Therapy

Visual therapy includes training in the use of low vision and visual perception.

Visual training therapy is provided by a professional who is a Texas licensed eye specialist with special professional preparation in visual training.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(XVII) Other Related Services

Other related services may be provided subject to written approval by the Texas Education Agency.

(iv) Extended Contracts for Special Education Related Services Professional Personnel

Special education related services professional personnel may be employed on a contractual basis for 11 or 12 months only for the purposes of providing:

(I) direct related services, or

(II) student evaluation.

(D) Special Education Paraprofessional Personnel

(i) Assignment

Aides are utilized to enhance the special education instructional program for handicapped students.

An aide may be assigned to the special education resource system part time or full time.

Aides may be assigned to assist students with special education transportation.

An additional Aide II is available to special education cooperative programs to assist with administrative duties of the cooperative.

Upon annual approval by the Texas Education Agency, an Aide III may be assigned to function as an "assistant teacher" or interpreter for the deaf under the direct supervision of a special education teacher. This assignment may be used in classes for the severely handicapped, community residential supplemental unit or hospital classes, or special education departmentalized classes. In the case of the interpreter for the deaf, the Aide III may be assigned also to regular classes. Students taught by the "assistant teacher" or interpreter aide are in the curriculum planned for special education, and the Aide III must work with the assigned special education teacher on a scheduled basis of at least one hour per day or five hours per week.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(ii) Standards

The aide may or may not hold a teacher certificate but meets preparation and job descriptions of school personnel as established in the Texas Public Education Compensation Plan.

The aide participates in inservice activities designed to improve or add specific skills needed by the aide.

(iii) Extended Contracts for Special Education Paraprofessional Personnel

Special education paraprofessional personnel may be employed on an 11- or 12-month basis only for the purpose of providing direct services.

(2) Individual Student Services Personnel

The school district may engage the services of personnel listed under special education personnel (special education teachers, special education professional support personnel, special education related services professional personnel, special education paraprofessional personnel) on a student-by-student or family-by-family basis. The services may be paid from the special education basic support funds or federal funds.

(3) Consultative Services Personnel

The school district may engage professional consultants to assist in:

- (A) program planning and evaluation,
- (B) inservice education and staff development,
- (C) curriculum development activities, and
- (D) part or all of its special education program.

Consultants employed shall hold the appropriate certification, licensure, or professional competencies and skills for the service contracted.

(4) Additional Special Education Personnel Allotments

(A) Circumstances for Supplemental Units

The school district's special education personnel allotments are based on statutory formula. Because the number and severity of handicapping conditions of students are not uniformly distributed across the state and because of

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

differences in population densities and service delivery capabilities, additional special education personnel allotments may be made when there exists:

- (i) an unusually high concentration of handicapped students, or
- (ii) an unusually high concentration of severely handicapped students, or
- (iii) an unusual cost burden imposed on a rural school district due to the difficulty involved in serving handicapped students in a sparse population area, or
- (iv) an unusual difficulty involved in the administration of a special education cooperative.

(B) Supplemental Unit Allocations

(i) Definitions

A supplemental unit is a special education class in an approved facility designed to provide instruction and related services to eligible handicapped students residing in the facility who are from outside the district in which the facility is located but from within the state.

An approved facility in which a supplemental unit may be placed is one that offers primarily medical or other treatment services and does not offer an approved educational program.

(ii) Allocation of Units

Personnel for supplemental units are allocated through the district or cooperative in which the approved facility is located.

Supplemental units may be provided for handicapped students residing in an approved facility for the purpose of receiving medical or handicapped child care treatment(s) not primarily related to educational functioning.

(iii) Responsibilities of Districts

The district where the child is a legal resident is responsible for sending to the receiving district copies of all current educational records on the

student and for maintaining quarterly contact with the district regarding the student's progress.

The district to which the supplemental unit is allocated is responsible for ensuring that all benefits of the child-centered educational process and program support services are provided to the student.

(iv) Relationship to Approved Nonpublic School Contracting

If a handicapped student is residing in a facility to receive medical or other treatment and was not placed there primarily to receive educational services and if that facility has an approved nonpublic school program, the district where the student is a legal resident may negotiate a contract for educational services. In this situation no supplemental unit would be allocated.

If the student is placed in a facility by the district where he/she is a legal resident, it is the responsibility of the sending district to negotiate a residential contract.

(v) Responsibilities of Other Agencies

If another non-educational agency places the student in a residential facility for non-educational purposes, that agency is responsible for all costs relating to treatment and residential care. In this case, the student may be eligible for services through supplemental units or contracting services as described above.

.024 Special Services

(1) Special Materials, Media, and Supplies

There is a special education resource system in operation which provides efficient and effective support services under the supervision of a special education professional support person.

The school district provides each special education teacher and each handicapped student adequate and appropriate special materials, media, and supplies.

The school district supports this effort by an annual budget of an amount equal to at least 35% of the district's special education basic support allocation unless otherwise justified by the school district and approved by the Texas Education Agency.

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(2) Transportation

(A) Regular

Handicapped students are eligible to receive regular transportation services on the same basis as other scholastics in the district.

(B) Special

The admission, review, and dismissal committee may approve special transportation for a handicapped student who without special transportation would be unable to benefit from the educational program, special or regular.

(C) Vocational

Handicapped students enrolled in vocational education programs are eligible for transportation services from campus to campus, from the student's home district to a neighboring district, or from the student's home or home district to a proprietary school.

.025 Facilities

Facilities for the handicapped students are comparable to facilities for students in general education. The facilities are barrier free and afford maximum safety for all students. Design, size, number, and decor of all structures are to be appropriate and adequate for providing the special instructional programs.

.026 Management System

The special education basic program includes a management system which:

- (1) coordinates activities conducted through the child-centered educational process and the program support system;
- (2) annually updates the five-year planning document;
- (3) assumes responsibility for the efficient operation of the referral committee and the admission, review, and dismissal committee;
- (4) operates within the policies and procedures established for general education and those specific policies and procedures for special education;
- (5) develops a cooperative effort between other agencies and programs serving handicapped students; and

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (6) maintains an effective communication system with the education service center.

.030 Regional Day School Program for the Deaf

The intent of the State Board of Education is to provide a comprehensive educational system through local districts, regional day school programs, and the Texas School for the Deaf which affords all hearing impaired students in the state opportunities for educational achievement equal to their peers with normal hearing.

Regional day school programs for the deaf shall provide educational services to eligible hearing impaired students, ages 0 through 22, who cannot otherwise receive appropriate educational services through the regular or basic special education program. These programs shall operate in accordance with state statutes, administrative procedures of the Commissioner of Education, and professional standards for education of the deaf.

Reference

Section 11.10, Texas Education Code

.030 Regional Day School Program for the Deaf

(1) Regionalization

The state is apportioned into five regions, as provided by statute and established by the Commissioner of Education, for operating the Regional Day School Program for the Deaf. Personnel are assigned to each region to provide professional leadership and to foster program planning, development, coordination, technical assistance, and monitoring.

(2) Composition

The Regional Day School Program for the Deaf includes at least the following basic components:

- (A) the State Director of Services for the Deaf, Department of Special Education, who is responsible for the planning and administration of the comprehensive special education program for the hearing impaired;
- (B) five Regional Directors who are responsible to the State Director for assuring the availability and quality of educational services for hearing impaired students within their assigned regions and for assisting, coordinating, and monitoring local schools and other agencies participating in the Regional Day School Program for the Deaf;
- (C) approved school districts and education service centers which have the direct administrative responsibility of

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

operating regional day school programs for the deaf as coordinating component units of the statewide comprehensive educational system;

- (D) the Texas School for the Deaf which provides educational services on a day or residential basis to deaf students for whom appropriate educational services are unavailable in their local or regional programs; and
- (E) Regional Advisory Committees which are comprised of citizens representative of the respective regions, appointed by the Commissioner of Education, and which advise Regional Directors concerning opportunities to improve education services for hearing impaired students within each region.

(3) Planning and Evaluation

Programs for the hearing impaired must be included in the planning and evaluation process of the school district and education service center.

(4) Designation of Program Sites

The Commissioner of Education, upon the recommendation of the Regional Directors and the State Director of Services for the Deaf, designates the school districts or other agencies eligible to receive funds to operate regional day school programs for the deaf. Funding is by contract. Consideration is given to these factors:

- (A) hearing impaired students are eligible for an appropriate educational program that is unavailable in the regular or basic special education program and can best be provided through the Regional Day School Program for the Deaf;
- (B) the independent school district, acting alone or in cooperation with neighboring districts and/or agencies, can plan and operate a comprehensive educational program for hearing impaired students, meeting the needs of identified and eligible students; and
- (C) the availability, or lack thereof, of alternative local or regional strategies that may provide appropriate and cost-effective instructional arrangements for hearing impaired students, such as student transfer and placement within an already established and accessible regional day school program for the deaf.

(5) Services and Standards

- (A) Services to hearing impaired students of regional day school programs for the deaf include but are not limited to:

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (i) identification,
 - (ii) continuing diagnosis and evaluation,
 - (iii) special education instruction,
 - (iv) assisting and counseling parents, and
 - (v) related services not available through the regular or basic special education program.
- (B) School districts and education service centers develop plans based on the Regional Day School Program for the Deaf Regional Program Evaluation Guide. The guide includes but is not limited to the following statutory elements:
- (i) assisting and counseling parents;
 - (ii) enabling as many hearing impaired students as practicable to reside with their parents and be afforded education in their home districts or in regional day school programs;
 - (iii) enabling hearing impaired students who are unable to attend school near their places of residence to be accommodated in foster homes or other residential arrangements;
 - (iv) enrolling in the Texas School for the Deaf only those students whose needs can best be met there;
 - (v) encouraging students who have demonstrated the ability, and whose circumstances warrant, to return to regular school classes on a part-time, full-time, or trial basis;
 - (vi) encouraging methods of communication which will best meet the needs of each hearing impaired student;
 - (vii) meeting professional standards requisite for success in education of hearing impaired students; and
 - (viii) selecting students from each Regional Day School Program for the Deaf and the Texas School for the Deaf proportionately and contracting with private entities to provide for attendance of deaf students, or for deaf students and their parents, or for deaf students and their teachers and/or parents at outdoor recreational programs operated for the purpose of providing skill training and education.
- (6) Student Eligibility, Identification, Assessment, and Individual Educational Plan Development and Review

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (A) Any person, birth through age 22, who has a hearing impairment which severely impairs processing linguistic information through hearing, with or without amplification, and adversely affects educational performance is eligible for consideration of services through the Regional Day School Program for the Deaf.
- (B) The child identification standards, Administrative Procedure 35.72.020 apply to the hearing impaired population with the following additional requirement. When a child who has a possible auditory handicap is referred to the school district campus referral committee, at least one member of the committee is a specialist in the education of the deaf.
- (C) A professional certified in the education of the deaf is assigned to assist in the assessment process [Administrative Procedure 35.72.030 (1)] and will:
 - (i) assist in the determination of appropriate areas of assessment;
 - (ii) assist in developing or determining appropriate assessment techniques;
 - (iii) assist in conducting assessments when appropriate; and
 - (iv) assist in the interpretation of data to ensure consideration and understanding of the educational, psychological, and social implications of hearing handicaps.
- (D) The determination of student eligibility and placement recommendations is the responsibility of duly constituted admission, review, and dismissal committees and will be supported by:
 - (i) audiological examination;
 - (ii) otological examination;
 - (iii) medical and family history;
 - (iv) physical examination;
 - (v) parental consent;
 - (vi) admission, review, and dismissal report; and
 - (vii) class schedule.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

The admission, review, and dismissal committee as described in Administrative Procedure 35.72.040, when considering a hearing impaired student, will include as one of its members at least one professional certified in the education of the deaf.

(7) Admissions and Dismissals

- (A) The Regional Day School Program for the Deaf shall admit only those students who cannot otherwise receive appropriate educational services and whose local admission, review, and dismissal committees have so recommended.

The Regional Day School Program for the Deaf shall not dismiss a student except in such cases where the admission, review, and dismissal committee determines the student no longer meets eligibility requirements or the student's needs can no longer be met. Interim services must be continued until the student is placed in an appropriate program.

- (B) The hearing impaired student's individual educational plan is jointly developed by an educator of the deaf, by the hearing impaired student where appropriate, by the parent, and by representatives of other public or private organizations providing or capable of providing specialized educationally related services to the student.

The content of the individual educational plan detailed in Administrative Procedure 35.72.040, when developed for a hearing impaired student, includes:

- (i) a summary of the views of the hearing impaired student, or as appropriate the parent, concerning goals and objectives and the special services being provided;
- (ii) an outline of the obligations undertaken by the student's family in connection with the individual educational plan;
- (iii) a detailed description of the arrangements made to provide the hearing impaired student with training to compensate for hearing loss and access to special media and equipment or devices commonly utilized by students with serious hearing loss;

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (iv) plans and arrangements made for contacts with and continuing services to the hearing impaired student during periods in which the student might not be involved in school programs; and
- (v) assurances that the hearing impaired student or the parent:
 - (I) has been provided a detailed explanation of the various service resources available within the community and throughout the state and
 - (II) has been informed of rights and procedural safeguards (also see Policy 35.75.070, Procedural Safeguards).

The individual educational plan review will be conducted in accordance with Administrative Procedure 35.72.070.

- (C) Whenever services are terminated under an individual educational plan on the basis that the hearing impaired student is not capable of benefiting from educational services, the following conditions and procedures must be met or carried out:
 - (i) the procedures concerning the dismissal of an eligible handicapped student from an educational program in Administrative Procedure 35.72.070 also apply to the hearing impaired;
 - (ii) the decision will be made only with the full participation of the hearing impaired student, where appropriate, the parent, and representatives of other organizations providing services to the student;
 - (iii) the rationale for the decision will be recorded as an amendment to the individual educational plan, certifying that the concerted provision of educational and related services has demonstrated beyond reasonable doubt that the student is not capable of benefiting from educational services; and
 - (iv) a copy of the individual educational plan and the certification that the student is not capable of benefiting from educational services will be sent to the Department of Special Education for review and follow-up.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(8) Professional Personnel Standards, Certification, and/or Licensure

Teachers and other personnel providing educational and related services to students in a regional day school program for the deaf will hold the appropriate certification, licensure, endorsement, or registration for the job assignment.

.040 Comprehensive Services for the Visually Handicapped

(1) Commitment to Comprehensive Educational Services for the Visually Handicapped

It is the intent of the State Board of Education to ensure availability of comprehensive educational services to visually handicapped students. Such services shall provide the visually handicapped with an opportunity for achievement equal to the opportunities of their peers with normal vision.

Reference

Section 11.052(a), Texas Education Code

(2) Definitions

(A) Visually Handicapped

Visually handicapped students for purposes of this program are defined in Policy 35.71.020.

References

Article 4413(202), Vernon's Civil Statutes
Section 16.161(1), Texas Education Code

(B) Special Education Services

Comprehensive special education services for students with serious visual handicaps (including combination visual and hearing handicaps) shall include all those basic special services routinely provided by regular or special education as specified in current policies, procedures, and guidelines. The existing local special education programs shall maintain responsibility for providing the basic educational program for the visually handicapped by allocating the necessary resources and services as are provided to other handicapped students in special education programs. Additional special services required by the unique nature of students with visual handicaps will be the ultimate responsibility of school districts using supplemental assistance. Supplemental services provided by law shall include parental counseling and training, orientation and

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

mobility training, and other nonacademic services. These services may be provided either directly by the school district or through contract or working arrangements.

References

Sections 16.161(2) and 11.102, Texas Education Code

(3) Establishment of Comprehensive Educational Services to the Visually Handicapped

With the approval of the State Board of Education, the Commissioner of Education shall appoint a Director of Education for the Visually Handicapped who, together with appropriate staff, shall be primarily responsible for the ongoing development and administration of a comprehensive statewide plan for the education of the visually handicapped which is a part of the statewide design for the delivery of services to all handicapped students.

The plan shall include but may not be limited to:

- (A) the provision of the administrative structure necessary for effective implementation and maintenance of educational and related services to visually handicapped students. The administrative structure encompasses all channels of development, coordination, and supervision of all elements necessary to provide statewide educational services and to encourage interaction and communication among all segments of the administrative framework.
- (B) the implementation of continuous planning and evaluation activities in educational programs for the visually handicapped and assurance that resulting information is used for decision making at all levels of performance;
- (C) the identification of every visually handicapped student birth through age 22 residing in the state of Texas to determine the educational service needed and to place the student in an appropriate program;
- (D) the establishment of a comprehensive service delivery system to provide a continuum of services to the visually handicapped;
- (E) the provision of opportunities for visually handicapped students to participate in appropriate special educational programs (including educationally related programs) which maximize the student's potential to learn;

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (F) the provision of a variety of instructional arrangements to ensure maximum flexibility in accommodating the requirements of the individual educational plan for visually handicapped students; and
- (G) the provision of instructional support to enhance the educational process for visually handicapped students through supportive services within the educational system.

(4) Planning, Budgeting, Evaluation, and Allocation

Programs for the visually handicapped shall be implemented and funded based on a system of continuous planning, budgeting, and evaluation. Information derived from the system shall be used for program renewal and decision making at all levels of performance.

Reference

Section 11.052, Texas Education Code
Section 11.091, Texas Education Code
Section 16.161, Texas Education Code

.040 Comprehensive Services for the Visually Handicapped

(1) Administrative Structure and Responsibility

School districts will have the responsibility of providing comprehensive educational services to the visually handicapped. The actual provision of needed services should be accomplished as near to the home community as possible.

Education service centers have a dual responsibility of providing direct services to visually handicapped students and providing technical assistance to other programs for the visually handicapped within the education service center region.

Responsibility for the state administration of programs for the visually handicapped rests with the Division of Services for the Visually Handicapped.

In planning and implementing public participation at the local level, there will be representation from those in the community who are concerned with educational programming for the visually handicapped.

(2) Planning and Evaluation

The programs for the visually handicapped are included in the planning and evaluation process of the school district and education service center (Policy and Administrative Procedure 35.71.040).

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(3) Identification, Assessment, and Individual Educational Plan Development and Review

- (A) The child identification standards, Administrative Procedure 35.72.020, apply to the visually handicapped population with the following additional requirement. When a campus referral committee is considering a student with a possible significantly serious visual handicap, a professional certified in the education of the visually handicapped is available to the committee.
- (B) A professional certified in the education of the visually handicapped is assigned to assist in the assessment process (Administrative Procedure 35.72.030) and will:
 - (i) assist in the determination of appropriate areas of assessment;
 - (ii) assist in developing or determining appropriate assessment techniques;
 - (iii) assist in conducting assessments when appropriate; and
 - (iv) assist in the interpretation of data to ensure consideration and understanding of the educational, psychological, and social implications of visual handicaps.
- (C) The admission, review, and dismissal committee as described in Administrative Procedure 35.72.040, when considering a visually handicapped student, will include as one of its members at least one professional certified in the education of the visually handicapped.
- (D) The visually handicapped student's individual educational plan is jointly developed by an educator of the visually handicapped, by the visually handicapped student where appropriate, by the parent, and by representatives of other public or private organizations providing or capable of providing specialized educationally related services to the student.

The content of the individual educational plan detailed in Administrative Procedure 35.72.040, when developed for a visually handicapped student, includes:

- (i) a summary of the views of the visually handicapped student, or as appropriate the parent, concerning the student's goals and objectives and the special services being provided;
- (ii) an outline of the obligations undertaken by the student's family in connection with the individual educational plan;

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- (iii) a detailed description of the arrangements made to provide the visually handicapped student with orientation and mobility training, instruction in braille or use of large print, other training to compensate for visual loss, and access to special media and equipment or devices commonly utilized by students with serious visual loss;
- (iv) plans and arrangements made for contacts with and continuing services to the visually handicapped student during periods in which the student might not be involved in school programs; and
- (v) assurances that the visually handicapped student or the parent:
 - (I) has been provided a detailed explanation of the various service resources available within the community and throughout the state and
 - (II) has been informed of rights and procedural safeguards (also see Policy 35.75.070, Procedural Safeguards).

The individual educational plan review will be conducted in accordance with Administrative Procedure 35.72.070.

- (E) Whenever services are terminated on the basis that the visually handicapped student is not capable of benefiting from educational services, in addition to Administrative Procedure 35.72.070, the following must be carried out:
 - (i) the decision will be made only with the full participation of the visually handicapped student, the parent, and representatives of other organizations providing services to the student;
 - (ii) the rationale for the decision will be recorded as an amendment to the individual educational plan, certifying that the concerted provision of educational and related services has demonstrated beyond reasonable doubt that the student is not capable of benefiting from educational services; and
 - (iii) a copy of the individual educational plan and the certification that the student is not capable of benefiting from educational services will be sent to the Texas Education Agency for review and follow-up.
- (F) The teacher of the deaf-blind or the teacher of the visually handicapped infant may be considered as the "professional

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

certified in the education of the visually handicapped," stated in subsections (A) through (E) above, if the teacher has been appropriately trained to work with students in those areas. However, if the individual is employed as a teacher, the person must have a teaching certificate.

(4) Service Delivery System

Comprehensive educational services to fulfill the requirements of a visually handicapped student's individual educational plan will be available through a statewide network of educational services.

(A) Local School District Programs and Responsibility

Each local school district has the responsibility of providing educational and related services to visually handicapped individuals birth through age 22 who are legal residents of the district. The responsibility for providing services is not alleviated by such services being unavailable within the jurisdictional boundaries of the school district.

(B) Special Cooperatives to Provide Services to the Visually Handicapped

If part or all of the necessary services needed by visually handicapped students cannot be provided by a single school district, two or more school districts may develop special cooperatives to serve the unique needs of the visually handicapped. Cooperative arrangements for programs and services for the visually handicapped may or may not correspond to existing special education cooperative boundaries. These special cooperatives should operate under the same policies and procedures as other special education cooperatives.

(C) Education Service Centers

Regional education service centers are essential components of an effective statewide program for the visually handicapped.

Education service centers will provide as necessary both direct and supportive services to visually handicapped students and their programs. Education service centers will employ a minimum of one staff member certified in the education of the visually handicapped whose major responsibility will be concerned with various components of programs and services to the visually handicapped.

Additionally, direct service personnel may be allocated to the education service center based on cooperative agreements and/or regional needs as determined through regional assessments and planning if such an arrangement represents the most cost-effective and programmatically effective alternative.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

Salaries for education service center personnel assigned to services for the visually handicapped will be in accordance with the salaries of similarly functioning personnel in each education service center.

Services provided by the education service center will include direct service(s) and technical assistance to existing and new local programs for the visually handicapped. Technical assistance includes the following:

- (i) consultative services;
- (ii) vision screening;
- (iii) needs assessments, planning, developing, evaluating, and accounting;
- (iv) direction service;
- (v) student assessment;
- (vi) specialized media and materials;
- (vii) staff development and inservice education; and
- (viii) coordination of services

(D) Texas School for the Blind

Upon the recommendation of the school district's admission, review, and dismissal committee, the Texas School for the Blind will provide direct educational services to visually handicapped students on a short-, intermediate-, and long-term basis under certain conditions (Policy and Administrative Procedure 35.73.050). Costs of student placement shall not be the responsibility of the parent. The school will also serve as a resource to school districts and education service centers.

(E) Contracting for Supplemental Services for the Visually Handicapped

Local programs for the visually handicapped and education service centers may contract with any qualified public or private organizations or qualified individuals for diagnostic, evaluation, instructional, and related services or other services supplemental to the education of the visually handicapped.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

(F) Other Service Delivery Options

Other public educational service options available to handicapped and nonhandicapped students will be made available to visually handicapped students as appropriate.

(5) Educational Services

(A) School districts (in cooperation with education service centers, when appropriate) will make every reasonable effort to provide specialized educational services to visually handicapped infants (birth through age two) and their families within resources (appropriately trained specialists) available. Admission to the program will be determined by the admission, review, and dismissal committee of the school serving the student. When admitted in the program, the student will be considered enrolled in the school system. The program emphasizes:

- (i) sensory-perceptual and motor activities,
- (ii) low vision training (for students with residual vision),
- (iii) social behaviors,
- (iv) exploring behaviors,
- (v) concept development, and
- (vi) parent counseling and training.

The program also interfaces with services provided by other agencies concerned with infants, such as the Texas State Commission for the Blind.

- (B) Whenever possible, visually handicapped students will be provided service in existing preschool, elementary, or secondary and adult basic education programs where such programs can be made appropriate for the student.
- (C) General education programs are adapted as much as possible to allow the visually handicapped student's full participation. Specialized services, media, materials, and equipment will be provided to the visually handicapped student as necessary.
- (D) Due to the great range of individual needs, degrees of severity of visual handicapping conditions, differences

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

in age at onset of the condition, progressive changes in the condition, and the specialized nature of skills necessary for the visually handicapped student, an array of programs and special services must be available. Specialized services are provided in the following general areas:

- (i) sensory-motor-perceptual-cognitive skills [e.g., sensory stimulation, gross motor/fine motor coordination, perceptual development including the use of low vision, concept development, etc.];
 - (ii) independent living skills [e.g., personal/social skills, daily living skills, orientation and mobility, home and family management, vocational skills (including prevocational skills, career education, vocational and sheltered workshops), meaningful use of leisure time, etc.];
 - (iii) communication skills [e.g., braille reading and writing, handwriting, listening, typing, use of optical apparatus, recording devices, etc.];
 - (iv) computation skills [e.g., abacus, talking calculator, etc.]; and
 - (v) other nonacademic areas [e.g., parent counseling and training, physical and occupational therapy when needed, etc.].
- (E) School districts and education service centers make use of all pertinent resources, whether such resources exist in special education programs or closely related programs operated by other public or private agencies through the development of cooperative working relationships and contractual arrangements.

(6) Student Learning Environments and Personnel

Instructional arrangements as described in the basic program apply to the visually handicapped. Additional arrangements include:

(A) Learning Environments

School districts will meet the special needs of visually handicapped students through existing learning environments when it is determined that the arrangement will benefit the student. Existing learning environments such as self-contained, resource, and regular classrooms are used. Additional instructional options may include: (1) the home (home infant program), (2) summer school programs (intensive specialized skill training),

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

and (3) the community (orientation and mobility, daily living skills, vocational training, etc.). If it becomes necessary to seek educational opportunities or specialized skills away from the home community, alternatives will be sought making it possible to select courses in certain skills for limited time periods or a combination of instructional options to facilitate the student's return to the local educational system.

(B) Personnel

Special services extended to students with a visual handicap will be provided by staff certified or licensed (by state or national accrediting authorities of the respective disciplines) as having the required professional credentials and competencies.

(7) Program Support Services

- (A) All requirements and procedures included in the Program Support System apply to programs for the visually handicapped.
- (B) Special textbooks, media, and materials will be made available to visually handicapped students in a timely manner.
- (C) School districts will have a written policy which requires and allows for the continuing education and professional development of school district staff providing special education services to the visually handicapped.

School districts will develop written procedures for assuring that staff assigned to work with the visually handicapped students have prompt and effective access directly to resources available through cooperating agencies in the local area (education service center visually handicapped component, Texas State Commission for the Blind, and others); through the Texas School for the Blind; and through other related types of resources.

(8) Planning, Budgeting, and Evaluation Process

Each agency will use information derived from the planning, budgeting, and evaluation process in making application to the Texas Education Agency for supplemental funds.

(9) Management Information System and Reporting

- (A) The Texas Education Agency will determine the information requirements for reporting to various groups to which programs for the visually handicapped are to be accountable. Data will be collected, analyzed, and reported at the local, regional, and state levels.
- (B) Students who are visually handicapped as defined in Policy

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

35.71.020 will be registered with the Texas Education Agency. The registration is for the following purposes:

- (i) to facilitate local, regional, and statewide planning, service development, and evaluation;
 - (ii) to qualify the student for special media, materials, and textbooks available through the Textbook Division for visually handicapped students in public education programs;
 - (iii) to qualify the student for supplemental services available through supplemental funds designated for the unique needs of visually handicapped students; and
 - (iv) to qualify students for media and materials through the American Printing House for the Blind, Inc.
- (C) The statewide system of registering visually handicapped students is the responsibility of the Texas Education Agency with the cooperation of other public and private program administrators as follows:
- (i) The superintendent of each district serving a visually handicapped student in a public education program will be responsible for registering the student.
 - (ii) A visually handicapped student who is a long-term (one year or more) student at the Texas School for the Blind is not registered by the district. The superintendent of the Texas School for the Blind is responsible for the appropriate registration of a student enrolled for a long term at the Texas School for the Blind.
 - (iii) The chief administrative officer of each private school serving a legally blind student who is not registered through a public education program is responsible for registering that legally blind student (as of the first Monday in January).

(10) Reviews of Programs for the Visually Handicapped

Programs for the visually handicapped will be reviewed in a timely and orderly manner by the Texas Education Agency.

(11) Basic and Supplemental Program Provisions

- (A) Basic comprehensive special education provides services for the visually handicapped and is supported through the Foundation School Program.
- (B) Supplemental Foundation School Program funds will be available to eligible programs for the provision of

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

supplemental services to the visually handicapped. These funds will be in addition to other school district allocations and may not be used in lieu of special education or regular education funding otherwise available. Personnel positions, materials, transportation, staff development, and other resources necessary for the effective delivery of services to the visually handicapped are available by application. Personnel funded with supplemental funding for programs serving the visually handicapped must be appropriately certified/licensed/registered in their particular area of assignment.

.050 Texas School for the Blind and the Texas School for the Deaf

(1) Authorization in General and Purpose for the Texas School for the Blind and the Texas School for the Deaf

The Texas School for the Blind and the Texas School for the Deaf, established by law, shall be constituted, governed, and operated in accordance with Policy 8100.

(2) Coordination With Statewide Educational Services for the Visually Handicapped and Hearing Impaired

The Texas Education Agency is responsible for coordinating the programs and services available through school districts, education service centers, and regional day school programs for the deaf with the Texas School for the Deaf and the Texas School for the Blind. The Texas School for the Blind and the Texas School for the Deaf are included in a statewide network of services and are considered a part of the continuum of direct services available to visually handicapped and hearing impaired students. The schools also serve as a resource to school districts and education service centers in the areas of general technical assistance, training and staff development, and research and demonstration.

(3) Student Placement

The intent of the State Board of Education is that as many as practicable hearing impaired and visually handicapped students reside with their parents and be afforded educational opportunities in their home school districts or, in the case of deaf students, in regional day school programs for the deaf. Only those students shall be admitted to the Texas School for the Blind or the Texas School for the Deaf whose needs can best be met in those schools. Beginning with the 1978-79 school year, no new student shall be admitted to the Texas School for the Blind or the Texas School for the Deaf unless that student has been referred by a duly constituted admission, review, and dismissal committee of the school district in which the student's parent lives.

When a school district, acting through its admission, review, and dismissal committee, recommends placement for a student at the

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

Texas School for the Blind or the Texas School for the Deaf but the respective state school fails to concur with the recommendation, resolution may be sought in accordance with procedures established by the Commissioner of Education.

The Texas School for the Blind and the Texas School for the Deaf shall have admission, review, and dismissal committees to perform within the schools the functions of reviewing and screening referrals; determining feasibility of serving the referred student; and, if the student is admitted, cooperatively developing with the local school district the individual educational plan, including duration of placement. In addition, the schools' admission, review, and dismissal committees have the responsibility of reevaluating the appropriateness of placement of currently enrolled students. Each school shall furnish reports of actions of its admission, review, and dismissal committee to the school district wherein a student and the student's parent lives. In addition, each school shall furnish at least annually a report of the educational progress of each student to the local school district.

(4) Dismissal of Students

A student may be dismissed from the Texas School for the Blind or the Texas School for the Deaf when the School's admission, review, and dismissal committee determines that the student no longer meets eligibility requirements or can no longer best be served there. Continuing educational services must be provided to such students until more appropriate placement is accomplished.

Reference

Section 11.03, Texas Education Code
Section 11.04, Texas Education Code
Section 11.06, Texas Education Code
Section 11.061, Texas Education Code

.050 Texas School for the Blind and the Texas School for the Deaf

- (1) Authorization in General and Purpose for the Texas School for the Blind and the Texas School for the Deaf
- (2) Coordination with Statewide Educational Services for the Visually Handicapped and Hearing Impaired
- (3) Student Placement
 - (A) Criteria for Admission
 - (i) The student and/or the parent(s) of the student must be legal residents of Texas.
 - (ii) The student must be between the ages of 5 and 22, but no older than 22 on September 1 of the enrollment year for residential placement.

- (iii) The student must, after appropriate multidisciplinary assessments, be considered to have such limited vision or hearing to necessitate the use of special aids, media, extra curricular experiences, and related services and instruction which could be reasonably provided by the Texas School for the Blind or the Texas School for the Deaf.
 - (iv) Multidisciplinary assessments must predict:
 - (I) that the functional level of the student is such that the needs of the student will be satisfied by the Texas School for the Blind or the Texas School for the Deaf programs;
 - (II) that the student's developmental capacities are such that the Texas School for the Blind or the Texas School for the Deaf is the appropriate placement; and
 - (III) that the student's medical and physical needs must be of a nature that can be met by the schools without extraordinary ongoing medical intervention, treatment, management, or custodial maintenance.
 - (v) The student must be referred by an admission, review, and dismissal committee from the local school district in which the student resides prior to formal admission to the Texas School for the Blind or the Texas School for the Deaf.
- (B) Sequential Procedure for Assessment and/or Admission
- (i) An identified student is referred by a school district to the Texas School for the Blind or the Texas School for the Deaf for additional comprehensive assessment.
 - (ii) Supportive data from the school district, as well as information from other sources, must be sent to the Texas School for the Blind or the Texas School for the Deaf admission officer prior to any scheduling of assessment. This information routinely would include general physical, visual, otological, audiological, and other assessments available to the school district, including parental consent and release forms.
 - (iii) The multidisciplinary assessment process may extend from 1 day to 30 days or as appropriate for each applicant.

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (iv) The assessment results are interpreted and program placement alternatives discussed with the parent and recorded by the assessment team.
- (v) The assessment results are shared with the referring school district.
- (vi) The school district, through its admission, review, and dismissal committee process, reviews the additional assessment data and determines most appropriate program and placement.
- (vii) No new student shall be admitted to the Texas School for the Blind or the Texas School for the Deaf unless that student has been referred for admission by a duly constituted admission, review, and dismissal committee of the school district in which the student's parent lives.
- (viii) The admission, review, and dismissal committee of the Texas School for the Blind or the Texas School for the Deaf reviews all assessment results to determine the feasibility of serving the referred student.
- (ix) If either the Texas School for the Blind or the Texas School for the Deaf disagrees that a student properly referred for admission by a school district's admission, review, and dismissal committee can be served at the Texas School for the Blind or the Texas School for the Deaf and the disagreement cannot be mutually resolved, mediation should be requested through the Texas Education Agency.

(4) Dismissal of Students

- (A) The student has satisfactorily completed a prescribed course of study.
- (B) The student has reached the age beyond which the student is no longer eligible for educational services at the Texas School for the Blind or the Texas School for the Deaf.
- (C) It has been determined through the admission, review, and dismissal committee processes of the Texas School for the Blind or the Texas School for the Deaf and the school district that:
 - (i) the student has acquired sufficient skills to enable the student to function in a special

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

or regular program in the local school district. This action will be coordinated with the local district prior to dismissal.

(ii) the student's developmental capacities are such that the student would best be served in an institution or agency operated by the Texas Department of Mental Health and Mental Retardation or other state or privately supported agency. There shall be representation of the other proposed service providers throughout the process.

(iii) the student's physical or mental condition has degenerated to the extent that the school can no longer meet the student's needs. [Refer to Administrative Procedure 35.72.070(4)]

(D) When a student's behavior becomes so disruptive or destructive that it significantly interferes with other students' education or constitutes a clear and present danger to self or others, the student may be considered for suspension/dismissal. [Refer to Administrative Procedure 35.72.070(5)]

Decision for continuance of suspension/dismissal will be the responsibility of the admission, review, and dismissal processes.

.060 Education Service Center

Each education service center shall maintain a special education program component. This program shall:

- (1) serve as the link between the Texas Education Agency and school district programs in the provision of supportive services and technical assistance;
- (2) provide or cause to be provided direct student services to certain severely handicapped students; and
- (3) coordinate regional educational services for the handicapped with services provided by other state or private agencies.

Reference

Section 11.103, Texas Education Code
Section 11.32, Texas Education Code
Section 16.104, Texas Education Code
Education for the Handicapped Act, n.9. Code, Sections 1401-1420

.060 Education Service Center

- (1) General Program Requirements

35.73 THE SPECIAL EDUCATION PROGRAM (continued)

- (A) The purpose of the general special education program component in each education service center is to provide the services for regional planning and evaluation; to implement a regional program for services for severely handicapped students; to implement provisions for supportive services, including special education instructional materials services to schools; and to serve as the regional-level component for the comprehensive system of personnel development.
- (B) Services for severely handicapped students are provided on a regional basis. The services include:
 - (i) continuous child identification and referral as a part of the statewide system;
 - (ii) individual student assessments;
 - (iii) instructional and related services developed through multi-district, regional, or multi-regional services; and
 - (iv) where necessary, individual student contracting with approved nonpublic schools.
- (C) A part of the general program requirements is a minimum component for services to visually handicapped students as described in Comprehensive Services for the Visually Handicapped (Administrative Procedure 35.73.040).

(2) Other Program Elements

- (A) Education service centers, on application from school districts and with the approval of the Texas Education Agency, may serve in a coordinating role in the provision of certain services made available through federal flow-through funds.
- (B) Education service centers, on request from school districts and with the approval of the Texas Education Agency, may serve in a consultative role for the districts in providing supportive professional personnel services for student assessment, media/materials consultation, inservice education, and other services.
- (C) The education service center may provide and participate in other facets of services to handicapped students in the region or to the schools served according to its annual approved plan.

35.74 SPECIAL PROGRAM PROVISIONS

.010 Approved Nonpublic Schools

The Commissioner of Education shall establish administrative procedures for:

- (1) approving nonpublic schools which may provide contractual educational services for handicapped students; and
- (2) developing the process whereby school districts, special education cooperatives, and education service centers may contract with approved nonpublic schools.

.010 Approved Nonpublic Schools

(1) Approving Nonpublic Schools

- (A) Approved nonpublic schools for handicapped students are categorized in two basic groups:

- (i) Nonpublic school programs for students who reside with parent or guardian on a day-by-day basis:

(I) Mental Health and/or Mental Retardation Facilities

Mental health and/or mental retardation facilities include institutions, programs, or centers under the jurisdiction (direct or indirect) of the Texas Department of Mental Health and Mental Retardation. (Article 5547-201, Senate Bill 465, 61st Legislature)

(II) Private, Nonprofit Facilities

Private, nonprofit facilities are private, nonprofit organizations, institutions, or agencies providing services for handicapped students. Such facilities must have a nonprofit corporation charter issued by the state of Texas.

- (ii) Residential nonpublic school programs

Approved institutions or agencies in the state providing residential programs for handicapped students are defined as private institutions which:

35.74 SPECIAL PROGRAM PROVISIONS (continued)

- (I) provide one or more of the required residential program services for which primary funding is not provided from other state or public sources and
 - (II) are appropriately licensed or certified by the Texas Department of Human Resources and/or the Texas Department of Health for the provision of residential services for handicapped students.
- (B) Approved nonpublic schools for handicapped students must meet the standards as set forth in the Principles and Standards for Approving Nonpublic Schools (Policy 3712).

Mental health/mental retardation facilities must have been in operation at least one year.

Private, nonprofit facilities must have been in operation for at least two years and hold a nonprofit corporation charter issued by the state of Texas at least for the same period of time.

Private residential facilities must have been in operation for at least two years under appropriate licensure or certification by the Texas Department of Human Resources and/or Texas Department of Health.

Before approval, all facilities will have received a site visit by a team of professional staff members from the Texas Education Agency.

- (C) Request for approval will be made by the applying nonpublic school to the Texas Education Agency on or before September 1.

The nonpublic school will present evidence of eligibility to apply for approval based on the results of a self-study.

Following the site visit, the nonpublic school will be notified of approval. Approvals will be for one year or three years.

Nonpublic schools not approved may reapply for the next year if sufficient improvements have been made to warrant the application, or they may appeal the recommendation of non-approval through established procedures of the Texas Education Agency.

35.74 SPECIAL PROGRAM PROVISIONS (continued)

Approved nonpublic schools will make an annual report to the Texas Education Agency as required.

An approved nonpublic school which does not contract for two successive years will be dropped from the approved list.

For day school programs, during the 175 days of contracted service any nonpublic day school that charges tuition, mails out statements requesting payment, or charges parents any sums of money for educational services or related services contracted, regardless of the terms used to describe services for which payment is charged, except for medical or routine supply items, will be subject to immediate removal from the list of approved schools.

Nonpublic day schools reporting the operation of programs beyond the required 175 days of instruction may determine an equitable means of assessing fees for the extended programs without penalty.

During the days of contract services, residential nonpublic schools may not request payment or charge parents any sums of money for educational, related, or residential services already covered by the contract with the school district.

Any attempt on the part of the nonpublic school to terminate a contract before the designated date in the contract without the supporting recommendation of the contracting school district's admission, review, and dismissal committee will cause the facility to be subject to immediate removal from the approved list.

The Texas Education Agency will also make special or follow-up visits to approved facilities at any time there is evidence of noncompliance that could adversely affect a facility's approval status.

(2) Contracting with Nonpublic Schools

Conditions under which school districts, special education cooperatives, and education service centers may contract with approved nonpublic schools on a day or residential basis for educational services are as follows:

- (A) Procedures for contracting with nonpublic schools as one instructional alternative will be included

35.74 SPECIAL PROGRAM PROVISIONS (continued)

as an element of the Five-Year Comprehensive Planning Document for Special Education.

- (B) Operational procedures addressing the following program elements are developed:
 - (i) development of individual educational plan by admission, review, and dismissal committee and nonpublic school;
 - (ii) accessing of local, regional, and state resources to provide appropriate educational services as established by the admission, review, and dismissal committee on the individual educational plan;
 - (iii) monitoring, assessment, and evaluation of individual student progress as established by the individual educational plan;
 - (iv) full protection of the rights of handicapped students and their families;
 - (v) transporting of handicapped students; and
 - (vi) assurance that this placement is the least restrictive alternative for an appropriate educational program.
- (C) The school district, special education cooperative, or education service center has documented that educational services provided, including reasonable modification, cannot meet the unique needs of handicapped students for whom contract services are requested and that the needed educational services are available in a designated approved nonpublic school on a day or residential basis.
- (D) Decisions to provide student contract services occur only as the result of a duly constituted admission, review, and dismissal committee from the school district where the student resides.
- (E) The school district, special education cooperative, or education service center is responsible for obtaining documentation from the nonpublic school that it is organized and equipped to provide the specialized facilities and personnel that are necessary to appropriately educate the handicapped student.

35.74 SPECIAL PROGRAM PROVISIONS (continued)

- (F) School districts are responsible for negotiating the contract with the nonpublic school and maintaining fiscal records of receipts and expenditures assuring that state monies paid the school district for contracted students are used for no other purposes.
 - (i) Contracts are to be negotiated annually on an individual student basis and must be completed on or before the date determined by the Texas Education Agency as the date for verification of students for contracting.
 - (ii) The contract period may not exceed the designated current fiscal year as established by the Texas Education Agency.
- (G) The school district is responsible for maintaining the student eligibility file and the dissemination of that information to the nonpublic school.
- (H) The school district is responsible for maintaining verification of days of attendance of the contracted student.

(3) Role of the Education Service Center in Contracting

In providing support and assistance to school districts seeking to contract for the placement of handicapped students, the education service center is responsible for:

- (A) giving direct service priority to each student being considered for placement if the school district has determined local services to be inappropriate
- (B) conducting a thorough and documented direction service for the purpose of identifying and communicating to the school district
 - (i) local and regional alternative instructional and related service resources
 - (ii) approved nonpublic day schools which meet the student's requirements

(4) Responsibilities of the Nonpublic School

An approved nonpublic school contracting with a school district for services to an eligible handicapped student is responsible for:

35.74 SPECIAL PROGRAM PROVISIONS (continued)

- (A) communicating to the school district and parents all policies and procedures governing that school's provision of services to handicapped students;
- (B) providing all information as required by the school district for making application for approval to contract, including a written statement of intent to accept the student for placement;
- (C) providing the school district and the Texas Education Agency all reports as required to maintain an approved contract;
- (D) providing the school district required student progress reports, including a written review and update of the student's individual educational plan at least every three months; and
- (E) providing written assurance to the school district that all procedural safeguards afforded the student by the school district will be fully maintained during the period of the student's placement in the facility.

.020 Rehabilitation Districts for Handicapped Persons

The Texas Education Agency shall allocate to Rehabilitation Districts for Handicapped Persons teacher units and other special education resources as authorized for the education of eligible students between the ages of 14 and 21, inclusive.

Reference

Section 26.01, Texas Education Code

.020 Rehabilitation Districts for Handicapped Persons

- (1) Rehabilitation districts are subject to the same policies and administrative procedures as any other school district, special education cooperative, or education service center operating a special education program.
- (2) School officials from both the resident district and the rehabilitation district must establish local operating procedures to ensure an efficient transition from the home district to the rehabilitation district to include:
 - (A) joint admission, review, and dismissal committee meetings;
 - (B) dissemination of pertinent information regarding the student's educational program; and

35.74 SPECIAL PROGRAM PROVISIONS (continued)

- (C) accessing and sharing of local, regional, and state resources.
- (3) Special education teachers, supportive professional personnel, and teacher aides employed in a rehabilitation district will meet certification standards as established and be assigned full time to the special education program.
- (4) Handicapped students enrolled in a rehabilitation district are eligible to receive the same benefits, services, and considerations provided any other student as further defined in this bulletin.
- (5) Residential service cost for students placed in the rehabilitation district's residential program will be borne by the state agency, or the school district, or the parent or guardian responsible for the residential placement.

.030 Department of Corrections

The Texas Education Agency shall allocate to the Department of Corrections teacher units and other special education resources as authorized for the education of eligible handicapped, incarcerated students who are not high school graduates or the equivalent.

Reference

Chapter 29, Texas Education Code

.030 Department of Corrections

- (1) Eligible handicapped students provided services through the Texas Department of Corrections can receive those services provided other students as defined under Policies and Administrative Procedures 3572 and 3575 of this bulletin.
- (2) The Department of Corrections shall be subject to the same policies and administrative procedures as any other school district operating a special education program.

.040 Responsibility of Other State Agencies

Other state agencies which provide instruction or related services for students who are handicapped shall follow the policies and administrative procedures of the Texas Education Agency as it pertains to the education of handicapped students in this state.

.040 Responsibility of Other State Agencies

- (1) The Texas Department of Mental Health and Mental Retardation

35.74 SPECIAL PROGRAM PROVISIONS (continued)

(A) State Schools for the Mentally Retarded

- (i) State schools for the mentally retarded meet standards as established.
- (ii) Students referred for admission to the state school for the mentally retarded will be done so on the joint recommendation of the parent or guardian and the local school district.
- (iii) Prior to students being dismissed or furloughed from the state school for the mentally retarded, reasonable efforts will be made to assure an appropriate special education service is available in the intended district of residence.

(B) State Hospitals

- (i) State hospitals operated by the Texas Department of Mental Health and Mental Retardation are considered treatment facilities for the mentally ill. Admissions are prescribed by law.
- (ii) Prior to the dismissal or furlough of a student from a state hospital, or as soon as practical thereafter, where not prohibited by law, the school district of intended residence will be notified regarding the possible educational needs of the student.

(C) Community Mental Health and Mental Retardation Programs and Services

- (i) Each community mental health and mental retardation center operates under the direction of a local board and follows the rules and regulations of the Texas Department of Mental Health and Mental Retardation.
- (ii) School districts may contract with community programs based upon the needs of the student and the services provided.

(2) Texas Youth Council Schools

- (A) Eligible handicapped students served by schools operated by Texas Youth Council Schools are provided appropriate education and related services according to the policies and administrative procedures of the Texas Education Agency.
- (B) Prior to a handicapped student's dismissal from a Youth Council School, the expected school district will be notified of the educational needs of the student.

35.74 SPECIAL PROGRAM PROVISIONS (continued)

- (C) Officials of the Texas Youth Council will determine that an appropriate educational program is available in a local school district prior to placing an eligible handicapped student in a child-care facility or a rehabilitation facility, either public or private.

(3) University of Texas System

(A) Moody State School

- (i) Moody State School meets educational standards as established by the Texas Education Agency.
- (ii) Students are referred for admission to Moody State School on the joint recommendation of the parent or guardian, the local school district, and the child's supervising physician.
- (iii) Students dismissed from Moody State School will be dismissed with recommendations for appropriate services to the intended district of residence.

(B) Speech and Hearing Institute of Houston and Callier Center for Communication Disorders

Services from these facilities may be provided under the administrative procedures for contracting with approved nonpublic schools on a day basis.

(4) Headstart Program Services - Department of Human Resources and the Governor's Office for Community Affairs

Coordination of services with Headstart is primarily the responsibility of the local school districts which include location and identification, development of referral system, assessment, delivery of services and individual educational plan (IEP) development. Preschool students found to be handicapped are eligible to receive instruction and related services from the public school on the basis of dual enrollment.

(5) Diagnostic or Related Services Provided by Other State Agencies

Other state agencies which have diagnostic or related services available for handicapped students will make these services available to students eligible to receive the service from that agency before the school district expends funds for the same or similar service.

.050 Responsibility of State Agency with Managing Conservatorship or Foster Home Placement

State agencies with the statutory authority for managing conservatorship of students who are handicapped or who have the responsibility for

35.74 SPECIAL PROGRAM PROVISIONS (continued)

foster home placement of students shall consider the educational needs of the student before home placement is made.

.050 Responsibility of State Agency with Managing Conservatorship or Foster Home Placement

State agencies having the statutory authority of managing conservatorship or foster home placement of eligible handicapped students will document that there is an appropriate special education program available in the school district of residence prior to placement or change of placement. Child-care costs will be provided from other than educational funds.

.060 Provision of Services for Students Placed by Their Parents in Private Schools

The Commissioner of Education shall develop and implement administrative procedures within the limits of state and federal statutes and regulations for the equitable participation of handicapped students enrolled in private schools by their parents.

.060 Provision of Services for Students Placed by Their Parents in Private Schools

For students who are enrolled in private schools, the local school district and/or education service center is responsible for processing referrals and determining eligibility.

Students who are found to be handicapped are eligible to receive instruction and related services from the public schools only on the basis of dual enrollment.

.070 Provision of Services for Students Placed by Their Parents in Private Child-Care Facilities In State

The Commissioner of Education shall develop and implement administrative procedures whereby handicapped students placed in private in-state child-care facilities by their parents shall receive the benefits of an appropriate free public education.

.070 Provision of Services for Students Placed by Their Parents in Private Child-Care Facilities In State

(To be developed)

35.75 PROGRAM SUPPORT SYSTEM

.010 Definition

The services provided in the program support system enable the operation of Comprehensive Special Education Programs to occur but do not include services provided directly to handicapped students.

These services shall include:

- (1) Policy Development and Communication
- (2) Program Development
- (3) Personnel Development
- (4) Instructional Resource Delivery
- (5) Service Coordination
- (6) Procedural Safeguards

.010 Definition (See Policy 35.75.010)

.020 Policy Development and Communication

All agencies providing public education programs for handicapped students shall develop and disseminate policies and procedures to meet their respective responsibilities as derived from law and State Board of Education policies.

References

State Board of Education Policy 1101
State Board of Education Policy 1106
State Board of Education Policy 1202.1
State Board of Education Policy 2102.6

.020 Policy Development and Communication

(1) Development

Each education agency develops policies to comply with State Board of Education policies and administrative procedures regarding the education of handicapped students.

(2) Communication

Each education agency develops procedures for communicating its policies to the employees of the agency, to other agencies with whom it coordinates, and to the population it serves.

35.75 PROGRAM SUPPORT SYSTEM (continued)

.030 Program Development

All agencies of public education shall develop and maintain program development efforts, first, to attain required standards and, second, to initiate innovative practices. Program development efforts are based primarily on annual evaluation information.

.030 Program Development

Program development occurs on two levels:

- (1) *Implementing and expanding basic special education programs throughout the state to meet both minimum criteria and unique emerging needs that may arise.*

School districts develop a comprehensive program of special education which meets minimum criteria and standards.

Education service centers furnish support and assistance to school districts in the development of comprehensive programs of special education.

The Texas Education Agency furnishes leadership and guidance to school districts and education service centers in the development of comprehensive programs of special education.

- (2) *Planning and initiating of innovative practices designed to meet projected needs, to make existing programs more efficient, and to improve the overall quality of the basic special education program.*

The Texas Education Agency develops recommendations for meeting the needs identified by data collected from needs assessments and other data-generating techniques and provides coordination and direction for research and development activities to ensure that such recommendations are practical, implementable, and needed.

.040 Personnel Development

All agencies of public education shall develop a program of personnel development for all school and related staff involved in the education of handicapped students.

.040 Personnel Development

- (1) State-Level Comprehensive System of Personnel Development

The Texas Education Agency provides a comprehensive system of personnel development which includes:

35.75 PROGRAM SUPPORT SYSTEM (continued)

- (A) formulation of policies relating to certification or licensure of all personnel involved in the education of the handicapped;
- (B) identification of statewide training and inservice education needs on a periodic basis;
- (C) development of a statewide personnel development plan to meet identified training needs;
- (D) utilization of statewide advisory groups composed of representatives from regional education service centers, local education agencies, institutions of higher education, and other agencies or groups providing services to the handicapped to develop, review, and update plans for personnel development;
- (E) dissemination of information relating to personnel development;
- (F) provision of technical assistance to education service centers, school districts, and other agencies providing services to handicapped students in developing and implementing personnel plans; and
- (G) monitoring and evaluation of the system.

(2) Regional-Level Comprehensive System of Personnel Development

Each education service center provides a comprehensive system of personnel development which includes:

- (A) identification of regional training and inservice education needs on a periodic basis;
- (B) development of regional personnel development plans to meet identified training needs;
- (C) utilization of regional advisory groups composed of representatives from local education agencies, institutions of higher education, and other agencies or groups providing services to the handicapped to develop, review, and update plans for personnel development;
- (D) dissemination of information relating to personnel development;
- (E) provision of technical assistance to school districts in developing and implementing personnel development plans; and
- (F) monitoring and evaluation of the system.

35.75 PROGRAM SUPPORT SYSTEM (continued)

(3) Local-Level Comprehensive System of Personnel Development

Each school district or cooperative provides a comprehensive system of personnel development which includes:

- (A) identification of local training and inservice education needs on a periodic basis;
- (B) development of local personnel development plans to meet identified training needs;
- (C) utilization of local advisory groups composed of representatives from local district personnel and other agencies or groups providing services to the handicapped to develop, review, and update plans for personnel development;
- (D) dissemination of information relating to personnel development; and
- (E) monitoring and evaluation of the system.

.050 Instructional Resource Delivery System

All agencies of public education shall implement and maintain a system which identifies, evaluates, distributes, and promotes the use of special education instructional resources or information about those resources. The special education instructional resource delivery system may be integrated with other similar school district and education service center systems and shall include media and materials, textbooks, essential reference material, and technical assistance services. (See State Board of Education Policy 3311, Instructional Resources in General)

.050 Instructional Resource Delivery System

(1) State-Level Responsibilities

The Texas Education Agency provides leadership, training, technical assistance, and monitoring for the Instructional Resource Delivery System.

(2) The Special Education Instructional Materials Center (SEIMC) Within the Education Service Center

(A) Purpose

- (i) To support and provide assistance to school districts and special education cooperatives regarding organization, development, and improvement of Special Education Resource Systems in accordance with assessed needs.

35.75 PROGRAM SUPPORT SYSTEM (continued)

- (ii) To provide a centralized, updated collection of instructional media and materials for professional personnel working with handicapped students within a designated region, to have available media and materials for eligible users for evaluation, and to provide training in the use of those media and materials. The collection may be child-use, professional, or training materials.
- (iii) To cooperate with colleges and universities within the region by providing assistance in the areas of instructional media and materials training, information retrieval data, SEIMC operations, special workshops, and other services in accordance with the education service center/SEIMC policies.
- (iv) To cooperate with the media component of the education service center to ensure that delivery services are not duplicated and that the special education materials delivery system is compatible with the Instructional Resource Delivery System of Texas.
- (v) To cooperate with the component for visually handicapped in the education service centers and school districts in the evaluation and effective use of instructional materials for the visually handicapped.

(B) Service Delivery System

- (i). The education service center has a SEIMC which is part of its comprehensive special education program. The SEIMC is under the supervision of a certified special education person.
- (ii) The education service center has established written procedures concerning the operation of the SEIMC which include the following components:
 - (I) Instructional Materials Services
 - (II) Training/Technical Assistance
 - (III) Information Retrieval System
 - (IV) Dissemination
 - (V) Staff Development

35.75 PROGRAM SUPPORT SYSTEM (continued)

Guides for the operation of the SEIMC are available through the Texas Education Agency.

(3) The Special Education Resource System (SERS)

(A) Purpose

- (i) To provide a system for the delivery of media, materials, and other resources by the local special education program to special education instructional personnel for direct use with handicapped students.
- (ii) To provide a system for the management and accountability of instructional media, materials, and other resources in the local special education program for handicapped students.
- (iii) To assist local special education personnel in becoming more knowledgeable and more competent regarding the selection of appropriate instructional media, materials, and other resources for handicapped students.

(B) Service Delivery System

- (i) The local special education program has a SERS which is part of its comprehensive special education program. A certified special education person has administrative responsibility for operation of the SERS.
- (ii) The local special education program has established written procedures concerning the operation of the SERS which include the following components:
 - (I) Instructional Materials Services
 - (II) Information Retrieval System
 - (III) Dissemination
 - (IV) Training/Technical Assistance
 - (V) Staff Development
 - (VI) Cooperation with the school district or special education cooperative media and materials services

35.75 PROGRAM SUPPORT SYSTEM (continued)

Guides for the operation of the SERS are available from the Texas Education Agency.

(4) Textbooks for Special Education

- (A) Students enrolled in special education programs will be entitled to the same percentages of state-adopted textbooks as other students based on individual needs.
- (B) Adoption textbooks used in the Texas public schools are available to handicapped students at the grade level in which they are achieving. Forms for obtaining textbooks are distributed by the Texas Education Agency. The directives for obtaining adoption textbooks are as follows:
 - (i) Students enrolled in special education programs are to be included in the total enrollment figures which are the basis for textbook requisitions.
 - (ii) Teachers of handicapped students are to be included in the count for each grade and subject level taught in order that teachers' editions, manuals, and guides can be provided.
 - (iii) School officials may retain up to 25% of out-of-adoption textbooks as may be needed to build a suitable library of materials for use by teachers and students.
 - (iv) If the annual requisition for textbooks for the past year did not include in the total enrollment the students of special education classes, the local textbook custodian may file a supplemental request.

(5) Textbooks, Materials, and Media for the Visually Handicapped

Visually handicapped students will be furnished special textbooks and other special materials as provided by state and federal statutes.

(A) State Provisions

- (i) Visually handicapped students who are enrolled in public education programs will be registered with the Texas Education Agency by their school districts.

35.75 PROGRAM SUPPORT SYSTEM (continued)

This registration verifies student eligibility for state-funded educational materials for visually handicapped students.

Annual registration of all visually handicapped students will be verified on the first Monday in January.

Registrations of newly identified visually handicapped students in the school district are conducted, as needed, throughout the school year.

- (ii) The allocation of state funds to special education programs to provide materials, appraisal, and consultant services for all eligible handicapped students is used when appropriate to acquire special materials for visually handicapped students.
- (iii) Supplemental funding for materials and media not available from other sources for visually handicapped students may be requested from the Texas Education Agency.

(B) Federal Provisions

- (i) Annual registration of all legally blind students enrolled in public educational programs of less than college grades will be verified as of the first Monday in January by the Texas Education Agency according to procedures established by the American Printing House for the Blind, Inc., for purposes of the "Act to Promote the Education of the Blind."

Reference

Public Law 922, Eighty-fourth Congress,
20 U.S.C.A., Sections 101 and 102, as amended

- (ii) Under this authority, an annual registration of all legally blind students enrolled in educational programs of less than college grades in private, nonprofit institutions will be conducted as of the first Monday in January by the Texas Education Agency. For the purposes of this registration, private and nonprofit institutions include accredited nonpublic schools in Texas (listed in the Texas School Directory of the Texas Education

35.75 PROGRAM SUPPORT SYSTEM (continued)

Agency) and approved nonpublic schools for handicapped students. Legally blind students who are enrolled in approved nonpublic schools for handicapped students and are not served through contract arrangements with public schools are to be included in this registration.

(iii) "Legally blind" students are those who have central visual acuity of 20/200 or less in the better eye with correcting glasses or a peripheral field so contracted that the widest diameter of such field subtends an angular distance no greater than 20 degrees.

(iv) Educational aids and materials produced by the American Printing House for the Blind, Inc., for legally blind registrants are ordered through the Texas Education Agency according to established procedures.

.060 Service Coordination

All agencies of public education shall implement and maintain a system for identifying and coordinating services beneficial to handicapped students. The system will provide for cooperation among all levels of public education, other units of state government, nonpublic schools, and other institutions or agencies serving handicapped students.

.060 Service Coordination

(1) Service coordination specifies the nature and extent of coordination with local, regional, state, federal, and other agencies which provide services to handicapped students.

(2) Each school district, education service center, and special education cooperative has a plan that assures coordination with existing agencies and facilities. The purposes of the plan are to provide more effective and comprehensive services for the handicapped and to ensure that no students are excluded because of division of responsibility.

(3) The plan includes:

(A) a list of resources available that serve handicapped students;

(B) procedures for obtaining services from each agency;

35.75 PROGRAM SUPPORT SYSTEM (continued)

- (C) communication procedures among agencies;
- (D) the involvement of agencies in regard to student placement in special education, including:
 - (i) representation of appropriate agencies on the admission, review, and dismissal committee;
 - (ii) the provision of student eligibility information leading to educational decisions; and
 - (iii) responsibility for the delivery of specific services.
- (4) There is provision for sharing data among agencies when the sharing of the data supports the continued development of service coordination.

.070 Procedural Safeguards

(1) Procedural Safeguards for the Protection of Rights

In conformance with all existing state and federal laws protecting the rights and privileges of handicapped persons in the pursuit of equal opportunity in public education programs, the Commissioner of Education shall establish statewide procedures for assuring these rights and privileges for students, parents, and other persons in public school programs, institutions, and agencies. The procedural safeguards which protect those rights and privileges are:

- (A) Confidentiality of Records
- (B) Notice
- (C) Consent
- (D) Educational Placement
- (E) Procedural Due Process
- (F) Surrogate Parents
- (G) Complaint Procedures

All procedural safeguards are afforded each eligible student of minimal legal age (18 years) and who has not been determined

35.75 PROGRAM SUPPORT SYSTEM (continued)

by the court to be legally incompetent or incapable of acting in his/her own behalf.

References

Texas Open Records Act, V.T.C.S. 6252.17A
Family Education Rights and Privacy Act, U.S.C. 20,
Section 1232g
Education of the Handicapped Act, U.S.C. 20, Section
1401-1420

(2) Notification of Rights

The Commissioner of Education shall establish procedures for informing students, parents, and persons in public school programs, institutions, and agencies of their rights.

(3) Responsibility of the Commissioner

It is the responsibility of the Commissioner of Education to ensure that a school district is providing a free appropriate public education for each handicapped student residing in the district whether or not that school district receives state or federal funds.

The Commissioner of Education shall develop administrative procedures based on State Board of Education policies for reviewing, investigating, and acting on any allegations which may be made by public agencies or private individuals or organizations of actions taken or refused to be taken by any public agency providing educational services to eligible handicapped students.

In order to facilitate interagency coordination for the planning and delivery of special education services for students who are handicapped, the Commissioner of Education shall establish an interagency advisory group composed of representatives from other state agencies who provide programs, services, or who otherwise have a statutory interest in the education of students who are handicapped.

.070 Procedural Safeguards

(1) Procedural Safeguards for the Protection of Rights

(A) Confidentiality of Records

The Texas Education Agency, education service centers, school districts, special education cooperatives, other

35.75 PROGRAM SUPPORT SYSTEM (continued)

state agencies, approved nonpublic schools, and other private facilities providing services for handicapped students observe all state and federal laws and regulations pertaining to the confidentiality of student records.

- (i) Each agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- (ii) One official at each agency will assume responsibility for ensuring the confidentiality of any personally identifiable information.
- (iii) Each agency will maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(B) Notice

- (i) The parent and student when appropriate are notified in writing in his/her primary language:

- (I) in a reasonable time before the state, regional, or local education agency proposes to initiate or change or refuses to initiate or change the identification, evaluation, or educational placement of the student, the notice to include a description of the action proposed or refused by such agency, an explanation of why the agency proposes or refuses to take action, and a description of any options the agency considered and the reasons why those options were rejected;
- (II) of a description of evaluation procedures, tests, records, or reports;
- (III) of the requirements of educational record keeping and his/her rights to access to the student's educational records;
- (IV) of his/her opportunity to present a complaint with respect to any matter relating to the identification, evaluation, or educational placement of the student, or the provision of a free appropriate public education to the student;

35.75 PROGRAM SUPPORT SYSTEM (continued)

- (V) of his/her right to formally challenge the contents of the student's educational records;
 - (VI) of his/her rights and responsibilities in the development of the individual educational plan;
 - (VII) of his/her right to formally challenge the individual educational plan including the determination of educational placement; and
 - (VIII) of his/her right to request a due process hearing.
- (ii) If the primary language of the home is not written, the education agency assures that the notification is presented in the mode of communication best understood by the parent/student. The education agency documents the time of notification and evidence of the parent's/student's understanding of the content of the notification.

(C) Consent

- (i) Consent means that the parent or eligible student:
- (I) has been fully informed of all information relevant to the activity for which consent is sought in his/her primary language or other mode of communication;
 - (II) understands the information relevant to the activity for which consent is sought;
 - (III) agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records, if any, which will be released and to whom; and
 - (IV) understands that the granting of consent is voluntary and may be revoked at any time.
- (ii) Consent is obtained prior to:
- (I) the initiation of formal evaluation procedures,

35.75 PROGRAM SUPPORT SYSTEM (continued)

(II) the disclosure of confidential information to anyone other than officials of participating agencies, and

(III) the use of information for purposes other than those previously specified to the parent or guardian or the eligible student.

(D) Educational Placement

The handicapped student is:

(i) placed in an educational setting which allows the student to develop according to the abilities and needs as stated in the individual educational plan. The student:

(I) remains in the regular education classroom unless the nature or severity of the student's handicap is such that the student cannot receive a satisfactory education in the regular classroom using supplementary aids and services and/or

(II) is considered for a variety of instructional options and educational placements;

(ii) educated to the maximum extent appropriate with students who are not handicapped;

(iii) educated as close as possible to the student's home; and

(iv) provided opportunities to participate in other school activities on the same basis as nonhandicapped students.

(E) Procedural Due Process

(i) State Board of Education Policy Series 7100 provides the framework for due process procedures for all grievances and complaints related to the public education system in Texas.

35.75 PROGRAM SUPPORT SYSTEM (continued)

- (ii) In the event that a parent or a handicapped student where appropriate (1) refuses to consent to the public agency's recommended educational assessment or placement of that student or (2) requests the public agency to pay for the independent assessment/evaluation, the public agency may request a hearing to contest these actions.
- (iii) Throughout the hearings and appeals process, the public agency is responsible for maintaining the student in the present placement except in cases where the safety of the student, classmates, or personnel is jeopardized. When due process proceedings involve initial admission to the system of public school, the student will be placed in the educational system with the parent's/student's consent until the due process proceedings are completed.

(F) Surrogate Parents

Reasonable efforts will be made to involve a student's parent or guardian regarding the provision of special education services. When a student's parent cannot be identified, cannot be located, or the student is a legal ward of the state, the person or agency who has the primary legal obligation for care, control, and custody of the handicapped student shall ensure that an individual is appointed to act as a surrogate parent.

A surrogate parent may be selected in any way permitted under state law. To ensure maximum objectivity and prevent possible conflict of interest, a person appointed as a surrogate parent is not an employee of the state or public agency responsible for or involved in the education of the student which that person represents. It is documented that the person appointed is competent to represent the individual student and also that he/she has no vested interest that would conflict with the needs of the student.

(G) Complaint Procedures

The Texas Education Agency maintains a process which collects information, responds to inquiry, acts on complaints, assists in grievance matters, and engages in mediation in response to the public. This process includes:

35.75 PROGRAM SUPPORT SYSTEM (continued)

- (i) receiving information concerning special education and analyzing the information in conjunction with other like information on file with the Texas Education Agency,
- (ii) engaging in mediation activities,
- (iii) responding to inquiries concerning special education services,
- (iv) acting on substantial complaints, and
- (v) advising all parties in grievance matters pertaining to the impartial hearing process (Reference to State Board of Education Policy 71.05).

(2) Notification of Rights

- (A) The Texas Education Agency provides a written document for notifying handicapped students and the parent or guardian of handicapped students of their educational rights.

The document is disseminated to each school district and education service center.

- (B) School districts provide a document for notification of rights to (1) the parent of each handicapped student who has been determined eligible for special education services and is a legal resident of the school district and (2) the student, where appropriate.
- (C) Each education agency is responsible for interpreting the document for notification of rights on request and for providing answers to any questions regarding rights and procedural safeguards in general.

(3) Responsibility of the Commissioner

- (A) The Texas Education Agency will investigate complaints concerning the provision of full appropriate education to eligible handicapped students.
- (B) When it has been determined from program reviews and visits that an agency responsible for providing educational services to the handicapped is not fulfilling its obligations in the provision of a free appropriate education, the service provider will:
 - (i) be notified of the deficiencies;

35.75 PROGRAM SUPPORT SYSTEM (continued)

- (ii) be given a specific time line for correcting the deficiencies;
- (iii) be provided technical assistance from the Texas Education Agency and/or the education service center; and
- (iv) be informed that failure to correct the deficiencies may result in, but not be limited to, modification to the service provider's accreditation status, discontinuance or withholding of funds, or other legal actions.

(C) Interagency Advisory Group

- (i) An interagency advisory group composed of appointed representatives from other state agencies who provide programs, services, or who otherwise have a statutory interest in the education of students who are handicapped will be established.
- (ii) The chief administrator of each state agency concerned will be invited to serve on the interagency advisory group or will be invited to designate a staff person to represent the state agency on the advisory group.
- (iii) The purpose of the interagency advisory group is to facilitate interagency coordination in the planning and delivery of special instruction or related services to students who are handicapped.
- (iv) The interagency advisory group will meet at least semiannually.

41.21 SPECIAL EDUCATION FUNDING

.010 Definition and Purpose

Special education funding is the equitable allocation of available state and federal funds to provide a comprehensive special education program for handicapped students ages 3 through 21 and for students ages birth through 22 with serious visual and/or hearing handicaps.

.010 Definition and Purpose

(1) School districts and education service centers shall receive allocations for services through:

(A) State Funds

- (i) Basic Program
- (ii) Regional Day School Program for the Deaf
- (iii) Comprehensive Services for the Visually Handicapped

(B) Federal Funds

- (i) Education of the Handicapped Act, Part B
- (ii) Education of the Handicapped Act, Part C
- (iii) Education of the Handicapped Act, Part D
- (iv) Elementary and Secondary Education Act, Title I, Handicapped

(2) State and federal funds are also provided for services for handicapped students placed in:

- (A) Texas School for the Blind and Texas School for the Deaf
- (B) Rehabilitation Districts for Handicapped Persons
- (C) Department of Corrections
- (D) Texas Department of Mental Health and Mental Retardation
 - (i) State hospitals
 - (ii) State schools
 - (iii) State centers for human development
 - (iv) Community centers
 - (v) Drug centers

41.21 SPECIAL EDUCATION FUNDING (continued)

.020 The Basic Program

The basic special education program shall be primarily financed by the state and each participating district through the Foundation School Program funding arrangement.

(1) Special Education Personnel Unit Allocations

The allocation formula for funding the basic special education program shall be based on the school district's total refined average daily attendance for students between the ages of 3 and 21 years for the preceding school year and the percentage of the total refined average daily attendance served as handicapped. If visually handicapped or hearing impaired students between the ages of 3 and 21 are receiving instruction from the basic program for at least 50% of the school day, the average daily attendance (ADA) of those students may be considered eligible.

Full funding shall be contingent upon a district's serving 12% of its average daily attendance as handicapped.

Should the amount of funds requested by school districts exceed the amount available for special education programs, the Commissioner of Education shall make adjustments as are necessary to reduce the total cost of the program to the limit available.

Reference

Section 16.104, Texas Education Code

(2) Supplemental Unit Allocations

Districts will be eligible for consideration for additional units if they meet the following criteria:

- (A) An unusually high concentration of handicapped students
- (B) An unusually high concentration of severely handicapped students
- (C) An unusual cost burden imposed on a rural school district due to a sparsely populated area
- (D) Unusual difficulty in the administration of a special education cooperative

(3) Special Education Personnel

Special education personnel may be employed for 10, 11, or 12 months, provided that such personnel have qualifications approved

41.21 SPECIAL EDUCATION FUNDING (continued)

by the Commissioner of Education. The Commissioner of Education shall establish rules for the allocation of extended contracts for special education personnel.

Special education personnel employed will affect the district's total personnel unit allocation.

Reference

Section 16.102, Texas Education Code

Section 16.104, Texas Education Code

(4) Contracting With Approved Nonpublic Schools for Handicapped Students

Districts, special education cooperatives, or education service centers may contract with approved public or private facilities within or outside the state for the provision of services to handicapped students.

Programs utilizing such contract services shall have their personnel units adjusted under rules formulated by the Commissioner of Education.

The Commissioner of Education shall establish annually the rates of state, local and federal funds to be used for contracts for residential placements.

Reference

Section 16.102, Texas Education Code

Section 16.104, Texas Education Code

(5) Basic Support Allocation

Districts will receive funds to support special education personnel units.

Reference

Section 16.104, Texas Education Code

(6) Budgeting, Accounting, and Auditing for Special Education

All special education programs for handicapped students operated by school districts and education service centers shall adhere to budgeting, accounting, and auditing practices as specified in the Financial Accounting Manual (Texas Education Agency publication BUX 921 01).

Reference

Policy 4201, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts and Education Service Centers

41.21 SPECIAL EDUCATION FUNDING (continued)

.020 The Basic Program

(1) Special Education Personnel Unit Allocation

Although a school district may not receive its full entitlement because of financial limitations, the formula for determining the entitlement for the basic program is:

1.0 personnel unit for each 100 refined average daily attendance up to 6,000 and .85 special education personnel unit for each 100 average daily attendance above 6,000. The personnel unit values are:

Special Education Director	(Depends on Grade)
Other Support Staff	1.20
Teachers	
Bachelor's or Master's Degree	1.0
Bachelor Laws, Doctor of Jurisprudence, or Doctor's Degree	1.15
Related Service Personnel	1.0
Teacher Aides	
I	.55
II	.60
III	.75

All special education personnel may be assigned on a full-time or part-time basis. If less than a full-time basis, only that part in which the personnel is assigned to eligible handicapped students will be paid for from special education funds.

To receive its full allocation, a program must identify and provide service to a number of handicapped students equal to at least 12% of its total refined average daily attendance in the preceding school year. These data will be reflected on the Superintendent's Annual Report. In determining the percent served, only students served by the district's special education personnel can be counted to generate the 12% served.

(A) Districts Serving Less Than 12% as Handicapped

If a program is serving less than 12%, the allocation will be reduced to a percent of the full allocation based on the following table:

41.21 SPECIAL EDUCATION FUNDING (continued)

<u>Percent Served</u>	<u>Percent of Full Allocation</u>				
11.9% = 99%	10.5 = 93	9.1 = 83	7.7 = 75	6.3 = 66	
11.8 = 99	10.4 = 92	9.0 = 82	7.6 = 75	6.2 = 65	
11.7 = 99	10.3 = 91	8.9 = 81	7.5 = 75	6.1 = 64	
11.6 = 99	10.2 = 90	8.8 = 81	7.4 = 74	6.0 = 63	
11.5 = 99	10.1 = 89	8.7 = 81	7.3 = 73	5.9 = 62	
11.4 = 98	10.0 = 88	8.6 = 81	7.2 = 72	5.8 = 62	
11.3 = 97	9.9 = 87	8.5 = 81	7.1 = 71	5.7 = 62	
11.2 = 96	9.8 = 87	8.4 = 80	7.0 = 70	5.6 = 62	
11.1 = 95	9.7 = 87	8.3 = 79	6.9 = 69	5.5 = 61	
11.0 = 94	9.6 = 87	8.2 = 78	6.8 = 69	5.4 = 60	
10.9 = 93	9.5 = 87	8.1 = 77	6.7 = 69	5.3 = 59	
10.8 = 93	9.4 = 86	8.0 = 76	6.6 = 69	5.2 = 58	
10.7 = 93	9.3 = 85	7.9 = 75	6.5 = 68	5.1 = 57	
10.6 = 93	9.2 = 84	7.8 = 75	6.4 = 67	5.0 = 56	

If a program is serving less than 5%, the allocation is negotiable on a program needs basis not to exceed 55%.

(B) Supplemental Unit Allocations

(i) Residential Units

If a district has a department of human resources approved facility within its boundaries which has handicapped students in residence, that district may be eligible for personnel units to provide special education services to those students. Application should be made through a written request to the Texas Education Agency.

Students who may be counted for these residential units are:

- (I) Eligible handicapped students except for those who generate education funds through another state agency
- (II) Students whose legal residence is a district other than the district applying for the unit but is within the state
- (III) Students for whom the state is managing conservator

41.21 SPECIAL EDUCATION FUNDING (continued)

The formula for the allocation of residential units shall be:

Personnel Units	Min 1/2	Min 1	Min 2	Each Unit Above Two
Visually Handicapped	3	6	12	6
Auditorially Handicapped	3	6	12	6
Orthopedically Handicapped	3	6	12	6
Other Health Impaired	3	6	12	6
Mentally Retarded	3	6	12	6
Emotionally Disturbed	3	6	12	6
Multiply Handicapped	3	6	12	6
Autistic	3	6	12	6
Learning Disabled	8	16	30	14
Speech Handicapped	30	60	110	60
Pregnant Students	10	20	30	10

One teacher aide is allocated for three instructional units and is assigned full time to this program.

One special education support personnel unit (supervisor, counselor, visiting teacher, educational diagnostician, psychologist, or associate psychologist) is allocated for each six special education instructional units and is assigned full time to this program.

These personnel units will be housed at the residential facility unless the district can justify a different location and receives written approval from the Texas Education Agency.

Any funds earned by residential units or students in such units shall be used to benefit these students and personnel.

If the local school board determines that the students in the facility are legal residents of that district in accordance with Section 21.031 of the Texas Education Code, the average daily attendance of the students may be counted. These personnel units will be subtracted from the total personnel unit allocation at the .25 weight.

If a student is placed in a facility by a local school district, that district will pay a fee to the receiving district for above state reimbursed costs an amount not to exceed the sending district's local tax collected for debt service and local maintenance per average

41.21 SPECIAL EDUCATION FUNDING (continued)

daily attendance minus the local funds assignment per average daily attendance. In all other cases, the responsibility for such fees will be negotiated between the school district where the facility is located, the residential facility, and the placing agent.

(ii) Other Supplemental Units

In other hardship cases as outlined in State Board of Education Policy 41.21.020(2), a school district may apply for other supplemental units through a written request to the Texas Education Agency.

(C) Verification Reports

The school district will file a Verification Report (which gives the extent of special education programs and services activated) as of the date established by the Commissioner of Education. Authorized units will be reflected on the Final Application--Foundation Funds (Analysis of Allocated Professional Personnel Units and Estimated Foundation Salaries Based Upon the Final Application).

(2) Special Education Cooperatives

- (A) School districts of less than 3,000 average daily attendance, unless otherwise authorized by the Commissioner of Education, will be members of approved special education cooperatives in order to provide adequate special education programs. Districts may form cooperatives with neighboring districts in order to achieve 3,000 average daily attendance. When it is not feasible to have a program of at least 3,000 average daily attendance, the Commissioner of Education may allocate a pro rata share of 30 personnel units. Personnel units may be provided through the education service centers on a consultative basis.
- (B) The approved designated fiscal agent of a special education cooperative is responsible for all applications, reports, and accounting for the cooperative. Any changes in the designation of fiscal agents or changes in school membership of the cooperative structure must receive prior approval from the cooperative management board and the Texas Education Agency.
- (C) The management board of each cooperative is responsible for determining each member's share of allocated special education personnel units and other funds based on student needs

41.21 SPECIAL EDUCATION FUNDING (continued)

of the cooperative as a whole. The special education Verification Report reflects each member's share of the total allocations including the percentage of shared time of itinerant and support staff and is signed by each superintendent to indicate agreement. One-fourth of each district's special education personnel unit share will be reduced from each district's total personnel unit allocation.

- (D) Each school district reporting the attendance of its special education students will receive the current operating cost allotment for those students. Member districts are responsible for contributing a prorated share of the operating funds to the fiscal agent for the necessary maintenance of the cooperative. This amount should be determined by the management board of the cooperative.

(3) Special Cooperative Agreements for Certain Handicapped Populations

School districts may develop cooperatives for the purpose of serving certain handicapped populations whose educational needs cannot be met in existing special education programs. Subject to approval by the Texas Education Agency, one district or an education service center is designated as the fiscal agent.

(4) Student Transfers

A special education student is eligible for a transfer from one school district to another on the same basis as all students in accordance with existing statutes, policies, and administrative procedures (State Board of Education Policy and Administrative Procedure 41.02.020).

In a special education cooperative when a handicapped student receives services from a district other than the home district, attendance accounting procedures shall be as follows:

- (A) If the home district is to retain the average daily attendance, the receiving district must report student attendance back to the home district. The home district is responsible for maintaining the daily register of student attendance or other acceptable attendance report.
- (B) If the receiving district is to receive the average daily attendance, a student transfer must be made in the same manner as the transfer of any student whose grade is not taught in the home district. The receiving district is responsible for keeping all attendance records of the student.

41.21 SPECIAL EDUCATION FUNDING (continued)

(5) Special Education Personnel

Special education personnel are employed and utilized in accordance with the provisions of the Texas State Public Education Compensation Plan and the administrative procedures as adopted whether paid from state, federal, or local funds.

Reference

Section 16.056, Texas Education Code

One-fourth (.25) of the total special education personnel unit allocation which is activated will be reduced from the district's total personnel units to determine the number of regular personnel units. The .25 reduction will not apply to teachers, aides, and support staff funded by regional deaf programs, special units allocated through the visually handicapped program, federally or locally funded units, or the supplemental aides for special education cooperatives.

If the value for all special education units employed from Foundation School Program funds exceeds the amount allocated, the excess will be charged to the total personnel unit allocation at the regular value.

(A) Special Education Directors

School districts and cooperatives may choose to designate one of their supervisory units as a special education director. This position may be 12 months for all programs, and the value and pay grade are based on the position selected. Any pay grade from grade 10 to one below that of the superintendent may be chosen. Special education directors in cooperative programs may be one pay grade below that of the fiscal agent superintendent. The management board of the cooperative will establish the pay grade for the director.

(B) Support Staff

Districts may utilize personnel units to employ special education support staff as listed in Administrative Procedure 35.73.023(1)(B) at pay grade 10 if listed as approved positions on the Texas State Public Education Compensation Plan.

(C) Teachers

Districts may utilize personnel units to employ teachers at pay grades 7, 8, and 9 to function within the instructional options in Administrative Procedure 35.73.023(1)(A).

41.21 SPECIAL EDUCATION FUNDING (continued)

(D) Related Service Personnel

Districts may utilize personnel units to employ related service personnel at pay grade 7 or 8 to function within the special education program as described in Administrative Procedure 35.73.023(1)(C).

(E) Teacher Aides

Districts may utilize personnel units to place special education teacher aides on pay grades 1, 2, and 3 as described in Administrative Procedure 35.73.023(1)(D). Special education cooperatives will receive a supplemental allocation of one Aide II for administrative purposes.

(F) Extended Contracts for Special Education Personnel

In addition to the director and cooperative aide, a school district may employ teachers, aides, support staff, and related service personnel on extended contracts to a maximum of 1/10 of the district's total special education personnel unit allocation activated (not including supplemental units). Teachers, aides, and related service personnel are restricted to direct service or student evaluations.

(6) Contracting With Approved Nonpublic Schools for Handicapped Students

When contracting with a nonpublic school, a school district is responsible for meeting the standards established in Administrative Procedure 35.74.010. School districts considering approved nonpublic school contracts will provide the necessary information in preliminary applications and verification reports. School districts contracting with approved nonpublic schools for special education services for handicapped students will pay an amount equal to the local tax collected for debt service and local maintenance per average daily attendance minus the local fund assignment per average daily attendance.

School districts receive contract funds through regular Foundation School Program payments and must make payments to nonpublic schools on a regular basis. The district will keep revenue and expenditure accounts for these monies. If,

41.21 SPECIAL EDUCATION FUNDING (continued)

at the end of the school year, the revenues exceed the expenditures, the excess allocations not expended will be deducted from the following year's basic support allocations.

The nonpublic school costs and the educational costs for residential placements will be converted into personnel unit values for each contract student.

The contract between the school district and the facility shall stipulate that the facility must provide the district with quarterly reports of services the student has received or will receive, as well as diagnostic or other evaluative information as a requirement for payment.

(A) Day School Contracts

Districts may contract with approved nonpublic schools without Texas Education Agency approval provided that:

- (i) the school is on the approved nonpublic school list
- (ii) the school is approved for the student's age and handicap

(B) Residential Contracts

All contracts for residential placement must be approved by the Texas Education Agency unless they are totally locally funded. No contract is approved which:

- (i) includes unapproved services,
- (ii) involves services the school district is capable of providing, or
- (iii) is not cost-effective when compared to other alternatives.

State, federal, and local funds may be used to pay for the cost of a residential placement. The sources of funds to be used and the amounts to be contributed depends on particular circumstances. Current residential placement guidelines will provide specific information.

41.21 SPECIAL EDUCATION FUNDING (continued)

The following table summarizes funding arrangements for certain day school and residential contracts:

	Day School Contract	Residential					
		Placed by District			State/Managing Conservator		
		Private	MHMR	TSB TSD	Private	MHMR	TSB TSD
District Pays Local Share	X	X	X				
District Pays Part of EHA-B Funds	X (May Pay Excess Costs)	X					
TEA Pays for Educa- tion Costs	X	X			X		
TEA Pays For Part of Residential and Related Service Cost	NA	X					

(7) Basic Support Allocation

For each special education personnel unit activated by November 1, the district will receive \$400 for special materials, supplies, and equipment, consultant and appraisal services, and cooperative staff travel. In addition, districts will receive \$100 per personnel unit as a start-up allocation for each new unit activated. The district determines how much of its allocation will be spent in each category, but the following procedures must be followed when expending the allocation:

(A) Special Materials, Supplies, and Equipment

Expenditures may be made for special materials, supplies, or equipment which are directly related to the curriculum and used by handicapped students and not ordinarily purchased for the regular classroom.

41.21 SPECIAL EDUCATION FUNDING (continued)

- (i) Special materials includes teaching materials needed to enhance the instruction for handicapped students, i.e., media packages, manipulative devices, teaching games, or items needed to provide related services.
- (ii) Special supplies includes consumables but excludes office supplies and routine classroom supplies. Consumables are defined as any type of instructional supplies that are used during a one-year period. Routine classroom supplies are defined as those purchased with an amount of funds equal to the average amount of funds spent on a regular student for classroom supplies.
- (iii) Special equipment includes instruction related equipment such as audiovisual machines used to provide or improve instruction, adaptive equipment such as communication devices and special seating, and items needed for related services. Not included are items which would be placed in any regular classroom such as desks, tables, chairs, bulletin boards, and chalkboards.

(B) Consultant Services

A portion of the funds may be utilized to conduct planning, staff development, and an evaluation of the Comprehensive Special Education Program. Funds may also be used for related service personnel as may be needed to provide direct services to individual handicapped students. When funds are used to employ a consultant, the district must:

- (i) document the amount paid;
- (ii) document that the consultant had the appropriate credentials;
- (iii) maintain a record of service performed, the purpose of the service, and to whom the service was provided;
- (iv) maintain a contract and evidence that the terms of the contract were carried out before final payment was made;
- (v) document that the services could not have been provided by an employee within the district;
- (vi) pay the consultant a fee rather than a salary; and

41.21 SPECIAL EDUCATION FUNDING (continued)

- (vii) document that there was no conflict of interest in hiring the consultant.

Consultant funds may also be used to pay travel of staff to attend meetings outside of the district for the purpose of improving performance in already held or assigned positions. The purpose for attending must relate to the district's staff development plan and would not include time spent in performing functions relating to professional organizations, such as organizing conventions and attending board of directors or business meetings.

With prior written approval from the Texas Education Agency, these funds may be used for travel outside of the state.

Consultants and/or staff may be reimbursed according to local policy; however, these funds may be no more than the state mileage allowance and per diem rates. Records must be available indicating mileage, contact person, destination, purpose, and how the activity strengthened the program.

(C) Assessment Services

The intent of the allocation is to augment the appraisal services being provided by the special education staff. The fund is basically to provide the materials and services required in the appraisal process. Supplies for the appraisal process may be purchased but must be used within that process. These funds may be used to contract for consultants to provide direct appraisal services to students if such services cannot be provided by the district's staff. A clerk may be paid from appraisal funds for working in the appraisal process. Only the time spent in working in the appraisal process can be supported by the basic support funds. Equipment may not be purchased unless it is designed to be used directly with the student for appraisal purposes.

(D) Travel

Special education staff should be reimbursed from operating cost allotment funds in the same manner as other district staff who perform similar tasks to the extent that funds are available. Excess travel for staff employed in cooperatives may be paid from basic support funds. Records must be kept at the local level indicating mileage, destination, contact person, and purpose. No travel records need to be forwarded to the Texas Education Agency.

41.21 SPECIAL EDUCATION FUNDING (continued)

An allocation for the travel of vocational adjustment coordinators will be paid from vocational funds at the prevailing rate through the Department of Occupational Education and Technology.

(E) Fund Limitations

With the exception of the appraisal clerk, additional special education teachers, support professional personnel, or special education teacher aides as authorized under the Texas Public Education Compensation Plan are not to be employed from the special education basic support funds allocated. Districts and/or cooperatives may maintain 1977-78 staff levels from this source but cannot employ additional personnel.

The basic support allocation (excluding nonpublic contract funds) need not be expended during the school year received. The fund balance may be applied to subsequent years and must be expended within the special education program in one of the areas mentioned above. Nonpublic contract funds not expended during the school year must be reported each June and will be deducted from the district's subsequent allocation.

(8) Transportation for Special Education Students

Funds are available for handicapped students unable to use regular transportation. Applications are made according to procedures established by the Texas Education Agency (Public School Transportation, Texas Education Agency publication BU6 936 01).

(9) Budgeting, Accounting, and Auditing for Special Education

All special education programs for handicapped students operated by school districts and education service centers will adhere to budgeting, accounting, and auditing practices as specified in the Financial Accounting Manual (BUX 921 01).

.030 Regional Day School Program for the Deaf

Operating costs of the regional day school programs for the deaf shall be borne by the state and paid from the Foundation School Program.

Allocations for the program shall be based on applications justifying needs and documenting required incidence figures.

41.21 SPECIAL EDUCATION FUNDING (continued)

.030 Regional Day School Program for the Deaf

School districts and education service centers apply for funds annually to the Texas Education Agency through regional offices of education for the deaf. Approved school districts and cooperatives provide appropriate staff, physical facilities, equipment, materials, and transportation to all eligible students. The regional programs will reimburse transportation at the same rate as other handicapped students.

Allocation of Units: School districts approved for participation in this program are allocated personnel through a contract based on documented need. The suggested ratios of full-time students to one teacher are as follows:

Preschool	-	5 students
Elementary	-	7 students
Secondary	-	8 students
Multiply Handicapped	-	3 students

The teacher-student ratio and service strategy for part-time students are determined by negotiations between the local program and regional offices based on uniform standards promulgated by the Commissioner of Education.

Applications are available from the Texas Education Agency and regional offices of education for the deaf. Applications are due on April 1 of each year for the following school year. Amendments are considered in December.

.040 Comprehensive Services for the Visually Handicapped

(1) Program Eligibility and Authority

All accredited school districts operating approved special education programs under the Foundation School Program or education service centers are eligible to apply for and receive state funding aid for the provision of educational and related services to visually handicapped students, ages birth through 22.

Reference

Section 11.102, Texas Education Code
Section 11.052, Texas Education Code

(2) Supplemental Funding

These funds are specifically limited to those services which are supplemental to other education programs.

41.21 SPECIAL EDUCATION FUNDING (continued)

.040 Comprehensive Services for the Visually Handicapped

(1) Supplemental Foundation School Program Funds

Supplemental Foundation School Program funds will support eligible programs in the provision of comprehensive educational and related services to the visually handicapped. These funds will be in addition to other school district allocations and may not be used in lieu of special education or regular education funding otherwise available. Personnel positions, materials, transportation, staff development, and other resources necessary for the effective delivery of services to the visually handicapped will be determined and approved for funding based on substantiated program needs. Funding for programs will be negotiated through the Texas Education Agency.

The Texas Education Agency will approve supplemental funding based on:

- (A) review of the application and all supportive documentation,
- (B) evidence that the application requests funding supplemental in nature and will not be used to supplant other available resources,
- (C) compliance with State Board of Education policies and administrative procedures, and
- (D) the availability of funds.

The approved application will constitute a contract.

Local programs for the visually handicapped may contract with any qualified public or private organizations or qualified individuals for diagnostic, evaluation, instructional, and related services or other services incidental to the education of the visually handicapped. Contracts using supplemental funds may not include services normally available through special education allocations, including contracts with approved nonpublic schools for handicapped students. Contract services should be described in the local plan and budget which is submitted to the Texas Education Agency.

(2) Due Dates

Eligible programs may make application for funding to the Texas Education Agency. Applications will be accepted twice annually as specified by the Commissioner of Education.

41.21 SPECIAL EDUCATION FUNDING (continued)

Emergency applications and budget amendments may be submitted at any time during the year.

(3) Distribution of Funds to Applicant

On approval by the Texas Education Agency, funds will be distributed to the applicant agency through the normal Foundation School Program process. Funds for supplemental services for the visually handicapped will be included in the 10 monthly warrants issued to approved applicant agencies.

.050 Texas School for the Blind and Texas School for the Deaf

(1) Operating Budget

- (A) An annual operating budget for the Texas School for the Blind and the Texas School for the Deaf is prepared based on the program requirements established by the Superintendents and the staffs of the Schools.
- (B) Transfer of budgeted amounts between types of funds within expense classification may be made without State Board of Education approval. Increases in budgeted amounts and transfers between expense classifications must have approval of the State Board of Education.

(2) Appropriated Funds

The biennial request for appropriated funds based on program requirements established by the Superintendents of the Schools shall be prepared. This request shall be approved by the local board, Associate Commissioner for Special Education, and the Commissioner of Education prior to being presented to the State Board of Education for adoption.

(3) Independent School District Funds

Independent school district funds allocated to the Texas School for the Blind and the Texas School for the Deaf shall be kept in depositories approved by the State Board of Education and shall be disbursed in accordance with its approved budget.

Reference

Section 23.61, Texas Education Code

(4) Trust Funds

The Director for Business Services is authorized to hold funds in trust for individual students, student organizations, and

41.21 SPECIAL EDUCATION FUNDING (continued)

student welfare. The Director for Business Services shall select a depository and disburse these funds as directed by the responsible school official, sponsor, or parent. The procedures for holding funds in trust shall be approved by the Commissioner of Education.

(5) Legacy Funds

Income received from property deeded or willed to the School's is to be held in a depository and shall be disbursed on the approval of the Commissioner of Education.

.050 Texas School for the Blind and Texas School for the Deaf (See Policy 41.21.050)

.060 Education Service Center

State funds for special materials, consultant, and appraisal services may be allocated to education service centers for the cooperative use of school districts.

State funds for support staff may be allocated to education service centers for those school districts which choose to receive such services through the education service centers.

Federal funds may be appropriated for education service centers for the coordination of special education and referral services and the development of regional programs for the severely handicapped.

Reference

Section 16.104, Texas Education Code

.060 Education Service Center

State funds are provided for the operation within each education service center of a special education component based on uniform standards. The state funds need not be expended during the school year received. Any fund balance carried over to a subsequent year's budget must be expended within the special education program.

School districts and cooperatives may contract with the education service center for the provision of appraisal and other direct services.

Federal funds are provided for regional child and resource identification systems, regional planning for services to the severely handicapped, related services, and other services based on the specific needs of the region.

The level of education service center participation in these activities will be dependent on federal funds available. Funds will be allocated upon receipt of an approval application.

41.21 SPECIAL EDUCATION FUNDING (continued)

Whether from state or federal funds, reimbursement for travel expenses for education service center special education personnel may be based on individual education service center procedures but may not exceed the current state rates for travel reimbursement.

.070 Special Program Provisions

(1) Rehabilitation Districts for Handicapped Persons

Funds may be allocated for the education of eligible students between the ages of 14 and 21, inclusive.

The costs of these allocations are to be borne entirely by the state and are to be paid from the Foundation School Program Funds.

Reference

Section 26.01, Texas Education Code

(2) Department of Corrections

Funds may be allocated for incarcerated persons who are not high school graduates.

The costs of these allocations are to be borne entirely by the state and are to be paid by the Foundation School Program fund.

Reference

Chapter 29, Texas Education Code

(3) Drug Centers

Funds may be allocated for residents of Texas Department of Mental Health and Mental Retardation drug centers and state hospitals.

Units for drug centers, rehabilitation districts, and correctional facilities will be negotiated on an individual basis.

.070 Special Program Provisions

(1) Rehabilitation Districts for Handicapped Persons

The superintendent of a Rehabilitation District for Handicapped Persons applies to the Texas Education Agency in the same manner as prescribed for school districts for the allocation of special education funds.

41.21 SPECIAL EDUCATION FUNDING (continued)

(2) Department of Corrections

The designated official in the Department of Corrections applies to the Texas Education Agency in the same manner as prescribed for school districts for the allocation of special education funds.

(3) Texas Department of Mental Health and Mental Retardation
State Hospitals and Drug Centers

The school district where the center is located applies to the Texas Education Agency for personnel for the center in the same manner as required for its other special education units.

.080 Federal Programs

Federal funds available for the education and support of handicapped students will be utilized according to applicable state and federal laws, approved state plans, and the various contract and grant applications developed by the Commissioner of Education and approved by the State Board of Education.

.080 Federal Programs

(1) Education of the Handicapped Act, Part B (Public Law 94-142)

School districts are eligible for federal funds provided through the Education of the Handicapped Act, Part B (Public Law 94-142) dependent on approval of an annual state plan. Receipt of funds will be contingent on an approved application. The amount of funds will be based on the number of eligible handicapped students being served as reported in the Public Law 94-142 Child Count. Students counted for this funding will not be eligible to generate Public Law 89-313 funds.

Funds are also provided to the state to be distributed on a discretionary basis for direct and support services and in compliance with federal law and the annual state plan.

(2) Education of the Handicapped Act, Part C (Public Law 91-230)

Federal funds available for assistance in the development of programs for the deaf-blind are distributed to local districts, education service centers, and state schools on a discretionary basis in accordance with an annual plan approved by the Bureau of Education for the Handicapped, United States Office of Education.

41.21 SPECIAL EDUCATION FUNDING (continued)

Funding from Part C is dependent on an annual proposal approved by the Bureau of Education for the Handicapped.

(3) Education of the Handicapped Act, Part D (Public Law 91-230)

Federal funds available for assistance in training personnel who work with handicapped students are distributed on a discretionary basis in accordance with an annual plan approved by the Bureau of Education for the Handicapped, United States Office of Education. Funding from Part D is dependent on an annual proposal approved by the Bureau of Education for the Handicapped.

(4) Elementary and Secondary Education Act, Title I, Handicapped (Public Law 89-313)

Funds are available on an entitlement basis to provide supplementary educational services to eligible students. Students whose free public education was/is provided by the state during 1971-72 and/or a subsequent year and who are in an appropriate special education program are eligible. Students counted will not be eligible to generate Education of the Handicapped Act, Part B funds.

(5) Applying for Direct Funding from the Bureau of Education for the Handicapped (Policy and Administrative Procedure 11.02.020)

All applications or proposals for funds from school districts and education service centers to the federal government for education of handicapped students are to be submitted to the Commissioner of Education for review.

APPENDICES

Section I

Annotated bibliography of selected publications essential to the administration of special education.

1. Texas Education Agency. Educational Rights of Your Handicapped Child. Publication GE9 871 01. Austin: The Agency, 1979.

The rights, privileges, and responsibilities of parents and their child being considered for special education are addressed in the seven major sections of this booklet: notice, comprehensive individual assessment, individual educational plan, educational placement, educational records, consent, and hearings and appeals. Local school districts are required to distribute copies of this booklet to every parent of a child being considered for special education or the child when appropriate. This publication is available in both English and Spanish.

2. Texas Education Agency. Financial Accounting Manual. Publication BUX 921 01. Austin: The Agency, 1971.

This manual is intended for public school administrators in their implementation of both an adequate and accurate budgeting and accounting system. The information contained in this manual includes all of the state laws pertaining to accounting procedures and provides the administrator with an awareness of common financial management problems that can arise.

Specific reference is made to Change No. 12, Procedure No. SPG 701, Subject: Legal/Fiscal Requirements-Federal Programs, dated January 15, 1979.

The official distribution of this publication is to the superintendent of every local school district.

3. Texas Education Agency. Fiscal Year 1980 Annual Program Plan for Part B of the Education of the Handicapped Act as Amended by Public Law 94-142. Austin: The Agency, July 14, 1979.

With the approval of the State Board of Education, this document is submitted to the United States Office of Education, Bureau of Education for the Handicapped, for approval of Part B funds. The state and federal requirements for the delivery of services to handicapped students in Texas are addressed and outlined in this document.

The first draft of the Annual Program Plan is available for public review and comment before being submitted to the Bureau of Education for the Handicapped.

4. Texas Education Agency. Guidelines for School Personnel: Certification, Allocations, and Records. Publication BU6 912 01. Austin: The Agency, 1978.

This handbook informs public school administrators of the general requirements for obtaining teacher certification, on how personnel units are authorized under the Foundation School Program, and on the methods necessary to report on and to account for personnel units. The official distribution of this publication is to the superintendents of each local school district.

5. Department of Health, Education, and Welfare. Federal Register, "Nondiscrimination on Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," (Implementation of Section 504 of the Rehabilitation Act of 1973). Wednesday, May 4, 1977, Part IV.

The regulations published in this issue of the Federal Register implement the conditions which prohibit discrimination against handicapped students by defining requirements for barrier-free facilities, appropriate location and notification of eligible handicapped students, nonbiased evaluation and placement procedures, and procedural safeguards. The regulations have been distributed to education service centers and local school districts and are available through local public libraries which carry the Federal Register.

6. Texas Education Agency. Principles and Standards for Accrediting Institutional and Special Schools. Austin: The Agency, Revised 1972.

The minimum standards under which institutional and special facilities gain approval to provide contractual educational services for eligible handicapped students are stated in this bulletin. Characteristics of a quality educational program are also identified within the contents of this bulletin.

The official distribution of this publication is to all institutional and special school directors.

7. Texas Education Agency. Principles, Standards, and Procedures for the Accreditation of School Districts. Publication AD7 825 01. Austin: The Agency, 1974.

The legislature provides financial support for school districts when they are in compliance with all accreditation standards outlined in this bulletin. The contents of this bulletin includes the Principles, Standards, and Indicators for school districts to operate within so as to ensure quality educational programs across the state.

The official distribution of this publication is to each superintendent and campus principal of every local school district.

8. Department of Health, Education, and Welfare. Federal Register, "Privacy Rights of Parents and Students," (Title 45, Subtitle A, Part 99). Thursday, June 17, 1976.

The regulations published in this issue of the Federal Register govern the inspection and review of education records, the amendment of education records, and the disclosure of personally identifiable information from education records for all students attending educational agencies or institutions receiving federal funds. The regulations are available through most local public libraries.

9. Department of Health, Education, and Welfare. Federal Register, "Education of Handicapped Children," (Public Law 94-142--Implementation of Part B of the Education of the Handicapped Act). Tuesday, August 23, 1977.

The regulations published in this issue of the Federal Register include all of the requirements which ensure the provision of free appropriate public education for handicapped students. The regulations have been distributed to education service centers and local school districts and are available through local libraries which carry the Federal Register.

10. Texas Education Agency. Texas School Law Bulletin. Publication AD8 013 01. Austin: The Agency, 1978.

This bulletin includes all of the state laws which have a direct or primary effect upon public education in Texas. The contents of this bulletin are referred to by Texas Education Code (TEC) numbers. The official distribution of this publication is to the offices of school districts and county superintendents, agencies, libraries, and other educational offices.

11. Department of Health, Education, and Welfare. Federal Register, "State Operated Programs for Handicapped Students," (Title I of the Elementary and Secondary Education Act of 1965 as Amended by Public Law 89-313). Monday, April 17, 1978, (Part II).

The regulations published in this issue of the Federal Register include requirements for financial assistance to be given to state agencies for projects and/or programs developed for the special educational needs of handicapped students in state-operated or state-supported schools as well as to local school districts for handicapped students who have left a state agency program and are now attending a local district special education program. The regulations have been distributed to education service centers and local school districts and are available through local public libraries which carry the Federal Register.

Section II

Other selected policies, administrative procedures, and Texas Education Code:

Appendix A

11.07 Non-Biased Pupil Appraisal Procedures

Authority: Section 11.24(6), Texas Education Code.

.010 Commitment to and Procedures for Non-Biased Pupil Appraisal

The State Board of Education commits itself to the belief that schools are responsible for ensuring that students of a particular race, sex, national origin, or primary home language are not denied the opportunity to obtain the education generally obtained by other students in the system.

It affirms that school districts should exercise particular care in the appraisal process which includes the referral, assignment, placement or change in placement of students to any of a variety of special programs--including special education, migrant, bilingual, gifted and talented, and vocational programs. Such procedures shall not discriminate against students on the basis of race, sex, national origin, primary home language, or handicapping condition.

In order to be nondiscriminatory in the aforementioned areas, any selection procedure must be formulated and administered solely on criteria appropriate to meeting the special educational needs of the student for whom the program is designed and, further, must provide for timely reassessment and opportunity for reassignment. Procedures and tests must be used which give adequate consideration to such factors, related to the assessment of learning, as socio-cultural and adaptive behaviours of students being tested, and linguistic and cultural competencies of test examiners. Similarly, adequate consideration to these factors should be included in the training of teachers, aides, and other instructional personnel.

If a student has been placed in any special program on the basis of selection procedures which are not in compliance with current statutes, State Board of Education policies or Texas Education Agency administrative procedures, it is the responsibility of the school district to provide special transitional services as the student is moved into more appropriate programs. The establishment of transitional services through the cooperation of special programs and general education should allow the student and the receiving teachers to receive the support necessary for continued educational growth and development. There should be no loss of credits earned in the special program or other penalties.

Board Action and Date
Adopted: April 1976
Amended: July 1978

Effective Date
May 5, 1976
August 2, 1978

Appendix B

34.11 Student Services in General

Authority: Sections 11.02(a) and 11.26(a)(5), Texas Education Code.

.010 Scope of Student Services

- (1) As part of the public education program, student services shall include guidance services, student health services, and attendance services. (Principles, Standards and Procedures for the Accreditation of School Districts, Policy 37.15, 5E)
- (2) Student services may also include home/school coordination, school psychological services, school lunch and child nutrition services, and transportation. (Note: Certain school districts are required to participate in the national school breakfast program in accordance with Section 21.914, Texas Education Code.)
- (3) Districts which provide services listed in (2) above shall comply with relevant law and State Board of Education policies and their corresponding administrative procedures.

Board Action and Date

Adopted: May 1972
Amended: September 1979

Effective Date

October 10, 1979

34.12 Guidance Services

Authority: Sections 11.02(a) and 11.26(a)(5), Texas Education Code.

.010 Provision of Services

Guidance services shall be considered as part of the educational program for the school children of Texas. These services shall be provided to all children through the local education agencies in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Policy 37.15). The local education agency shall ensure appropriate coordination of all elements of guidance services, other student services, and related instructional programs.

Board Action and Date

Adopted: May 1972
Amended: September 1979

Effective Date

(Previously Policy 34.21)

34.13 School Health Services

Authority: Sections 11.02(a) and 11.26(a)(5), Texas Education Code.

.010 Health Services Program

School health services shall be considered as part of the educational program of the school children of Texas. These services shall be provided to all children through local education agencies, in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Policy 37.15) and standards established by the Texas State Department of Health and in accordance with applicable laws. The local education agency shall ensure appropriate coordination of school health services, other student services, and related instructional programs.

Board Action and Date

Adopted: May 1972

Amended: September 1979

Effective Date

October 10, 1979

(Previously Policy 34.41)

34.14 Advisory Committee on the Comprehensive School Health Program

Authority: Section 11.25(f), Texas Education Code.

.010 Purpose and Responsibilities

A Committee shall be established to advise the Commissioner of Education and the Texas Education Agency on the comprehensive school health program. The school health program includes health education, health services, and environmental conditions of the school.

The Committee shall function in an advisory capacity to offer suggestions, provide advice and counsel, and promote statewide activities regarding the school health program.

Board Action and Date

Adopted: January 1979

Effective Date

January 29, 1979

34.15 Home/School Coordination Services

.010 Provision of Services

Home/school coordination services may be made available as a part of the educational program for the school children of Texas. These services, when used, shall be provided to children through the local education agencies in accordance with Principles, Standards, and Procedures for the Accreditation of School Districts, Policy 37.15. The local education agency shall ensure appropriate coordination of all elements of home/school coordination services with other student services and with the comprehensive educational program.

Board Action and Date
Adopted: September 1979

Effective Date

34.16 School Psychological Services

Authority: Sections 11.02(a) and 11.26(a)(5), Texas Education Code.

.010 Provision of Services

School psychological services may be provided as a part of the educational program for the school children of Texas. These services may be provided to children through the local education agencies in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Policy 37.15) and Policies and Administrative Procedures for the Education of Handicapped Students (Policy and Administrative Procedure 35.71-35.75). The local education agency shall ensure appropriate coordination of psychological services with other student services and related instructional programs and psychological services for special populations.

Board Action and Date
Adopted: September 1979

Effective Date
October 5, 1979

Appendix C

34.64 Transportation Special Provisions

.010 Special Transportation Provisions for Certain Educational Programs

Special transportation provisions for educational programs shall be established by the Commissioner of Education when directed by law or when the commissioner deems necessary. These programs shall include, but not be limited to, vocational, bilingual, and special education for handicapped students.

Board Action and Date
Adopted: May 1972
Amended: July 1973
September 1975
November 1979

Effective Date

34.64 Transportation Special Provisions

.010 Special Transportation Provisions for Certain Educational Programs

The special provisions which are made for transporting pupils are found in Administrative Procedures 34.64.020-.030.

.020 Transportation for Handicapped Students

Services may be provided eligible pupils in the following manner:

A. District operated buses

B. Private transportation provided by parents or their agents

A public school district having an education program for handicapped students may provide services for students who are rendered eligible under Policy and Administrative Procedure Series 35.70. Services may be provided to eligible pupils by the following methods: district operated buses and/or private transportation provided by parents or their agents. The transportation program for handicapped children must be operated in accordance with the following guidelines and requirements:

(1) Application

(A) All bus routes shall be approved by the lawful designated authority and the Commissioner of Education. All requests for additional district operated routes shall be on forms furnished by the Texas Education Agency and received by the transportation section of Texas Education Agency on or before December 22 of the current school year. There must be a complete route description for each route requested.

(B) Notification of the transportation of eligible handicapped pupils by private transportation provided by parents or their agents shall be made annually to the Texas Education Agency on appropriate forms by September 20. Special requests should be made for programs initiated during the school year.

All districts participating in a transportation program shall file with the Texas Education Agency a final application which shall be due annually on or before May 15. A district shall certify that students being served shall meet the statutory requirements for this service. If a district desires to operate a part of the handicapped children program in the 4th quarter

of the 1979-80 school year, in lieu of another quarter, a supplement to the application including a list of students being transported on June 15, or the nearest school day, shall be filed on or before July 1. No student is eligible for special transportation for more than 175 days of any school year.

(2) Routes

- (A) Each bus route operated by a school district shall be planned to provide the transportation service required by each eligible student. These services shall be transportation from the child's home to school and return to home. When a child is picked up or delivered to a different address, a request must be made in writing and be on file.
- (B) The system of routes, both private and district operated, shall be substantiated by a narrative description of each route including the number of miles covered by each route and the number of handicapped and regional day school deaf pupils on each route.
- (C) School bus routes for the following school year shall be established and approved by the legally designated authority by June 1 as required by Section 16.202(b)(2), Texas Education Code, and route descriptions furnished annually to the transportation section of the Texas Education Agency for each route operated by school owned buses.
- (D) If notification of revised routes is not received by June 1, the program for the following school year will be approved in keeping with the route mileages rendered on the annual student transportation report for the current year.
- (E) The nearest practical route to serve eligible students between home and school should be established for district operated buses.

(3) General Guidelines and Requirements

- (A) It is interpreted that the legislative intent for special transportation was for the school district to own and operate suitable school buses for eligible handicapped children.
- (B) Buses shall transport only eligible handicapped students as defined in Policy 34.62 and Policy and Administrative Procedure Series 35.70.

- (C) Private transportation provided by parents or their agents may be used in some instances with prior approval of the Texas Education Agency on an annual basis. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.
- (D) If transportation is provided by an agent of the parent, a signed statement of parental authorization must be on file in the student's eligibility folder for each school year the service is provided.
- (E) Special modification of equipment as well as the type of equipment chosen should be a major consideration for the safety of the children being transported.
- (F) School buses used to transport eligible handicapped students must meet state and federal specifications and must be purchased in keeping with Section 21.161, Texas Education Code. Small buses are considered to be most feasible. Each route load will depend on the number and kind of students transported. Precaution should be observed to prevent overcrowding of special buses.
- (G) In emergency situations, a special bus should be available for eligible handicapped students.
- (H) Special buses may be used to transport eligible handicapped children on field trip travel. In using these vehicles for field trip activities, the district's Handicapped Children Transportation Fund must be reimbursed at a rate based on the actual cost per mile for the operation of the special buses to transport handicapped students to and from school. The extracurricular rate for handicapped student transportation should be included in the local board of trustees' policy relevant to extracurricular travel.
- (I) Students attending a Regional Day School for the Deaf may be transported with handicapped children on a per student cost basis from funds provided by the Regional Day Schools for the Deaf Program only when this transportation does not change the services required for eligible handicapped students.

Board Action and Date

Adopted: May 1972

Amended: July 1973

January 1974

September 1975

September 1977, Board Information and Review

September 1979, Board Information and Review

Effective Date

Appendix D

37.15 Principles, Standards, and Procedures for the Accreditation of School Districts

.340 List of Approved Subjects and Courses, Grades 7-12

- (a) The following list describes approved subjects and courses to be offered in grades 7-12 and indicates the amount of time for each subject in grades 7 and 8 and the number of units of credit that can be awarded for each course in grades 9-12.

NOTE: The grade placements shown in the list are based on instructional materials including textbooks and on curriculum frameworks. Variation from the listed grade placements may be made for an individual student by appropriate local school district officials when such variation is determined to be in the best interest of the individual student.

- (b) Courses offered for a unit of credit in grades 9-12 are scheduled for a minimum of 160 clock hours of class instruction.

A course may be considered completed and credit awarded under either of the following conditions:

The student has been enrolled in a course scheduled for the minimum clock hours and has made satisfactory progress.

The student has demonstrated achievement by meeting the standard requirements of the course, regardless of the time he/she has been enrolled in the course.

NOTE: A unit of credit is the equivalent of the study of a subject that is scheduled for a minimum of 160 clock hours, which traditionally is one 55-minute period per day for the school year. A $\frac{1}{2}$ unit of credit is 80 clock hours.

This definition is based on the usual operation of schools. Deviations from the usual operation are acceptable for meeting the unit of credit so long as the school makes available the amount of time required to permit the individual to meet the acceptable achievement standards for the course.

Board Action and Date
Adopted: April 1977
Amended: September 1979
November 1979

Effective Date
May 17, 1977
October 5, 1979

Second Languages

Sequential Courses	7-12	(7-8) 65-130 Clock hours each year offered (9-12) 1/2-4 units	Levels I-III constitute a basic program. (for Latin, Levels I-II.) The concept of level is defined in terms of student achievement rather than time enrolled in a course. In grades 7-8, a level is usually completed in two years.
Czech I-VI French I-VI German I-VI Latin I-VI Russian I-VI Spanish I-VI			
Non-Sequential Courses	7-12	(7-8) 65 Clock hours minimum each year offered (9-12) 1/2 unit minimum	Language courses for specific purposes, conversation, careers, travel, etc., and exploratory language programs are non-sequential. These courses introduce students to the experience of language without necessarily stressing equal development of all four skills and the study of culture.
Czech French German Latin Russian Spanish			
American Sign Language	7-12	(7-8) 65-130 Clock hours each year offered (9-12) 1/2-1 unit	Taken in sequence. The course is to improve the quality and quantity of effective communication among deaf, hard of hearing, and hearing persons. Study in this course is intended to assist students in developing the knowledge, attitudes, and skills needed to communicate effectively. Available to deaf, hard of hearing, and hearing students.

Appendix E

3721 Comprehensive Planning and Evaluation

The public school education program of Texas shall be based upon a system of planning that includes

- (1) Goals for Public School Education in Texas;
- (2) needs assessment to determine the progress being made by pupils toward these goals;
- (3) educational objectives for pupil growth and for improved instruction;
- (4) program designed to achieve these objectives; and
- (5) evaluation of both pupil objectives and instructional programs.

This system of planning and evaluation will be implemented to every extent possible as applied to the Texas Education Agency, school districts, and education service centers.

Board Action and Date
Adopted: May 1972
Amended:

Effective Date

Appendix F

4102 Average Daily Attendance

4102.1 Basis For Determining Allocations

4102.2 Eligible ADA

A pupil may be counted as eligible ADA if he is a resident or an approved transfer student.

4102.3 Resident Pupil

- (1) A resident pupil is one who lives within the boundaries of a district.
- (2) After a resident pupil has been in membership in a school district and his or her legal residence has been changed because his or her parents or guardians have moved to another school district, this pupil is eligible to remain in this district for the remainder of the school year or is eligible to attend school in the district to which his or her legal residence has been moved.

4102.4 Approved Transfer Pupils

An approved transfer pupil is one who lives in one Texas school district and is approved to attend a school in another school district in Texas.

Districts will be notified by July 15 by the State Funding Division whether or not proposed transfers as of May 1 will cause their district to be in violation of Court Order 5281. Districts who are in violation will not effect any transfers without prior approval of the Texas Education Agency.

Districts notified that their proposed transfers as of May 1 will be in violation of Court Order 5281 may submit only extreme hardship transfers to the Agency for approval.

Hardship transfers (those after May 1) between districts not being notified of a possible violation of Court Order 5281 may be effected between districts involved; however, the hardship transfer forms must be on file with the receiving school district.

4102.5 Procedure for Transfer

(1) Eligibility

Within the limits set out in this administrative procedure, any child who is eligible to attend the

free public schools of Texas at the beginning of the scholastic year may be eligible for a transfer from his or her district of residence to any other Texas school district.

(2) Requirement

Both the receiving school district and the parent, guardian, or other person having lawful control of the child must agree in writing to the transfer.

The acceptance of transfers is subject to the policies of the Board of Trustees of the receiving district.

(3) Filing

To be valid, all transfers must be made on forms approved by the Texas Education Agency and filed with the receiving district.

A report on proposed transfers accepted by May 1 will be forwarded to the Texas Education Agency, State Funding Division, prior to May 15. These reports will be used by the Agency to determine the resulting ethnic ratio of each campus in each district based on the proposed transfers submitted by the districts.

(4) Tuition

The receiving district may require a tuition fee not to exceed the expenditure from local funds per pupil in average daily attendance.

The expenditure from local funds per pupil in average daily attendance is determined by the local board of school trustees.

Tuition which is greater than that charged in the previous year may not be charged unless it is specified in the transfer agreement.

4102.6 Transfer of Average Daily Attendance for Distribution of the State Available School Fund

If the number of grades to be taught is reduced by the county board of school trustees, the average daily attendance earned by pupils in the grades no longer taught is subtracted from the district's prior year's average daily attendance.

The average daily attendance of a pupil whose grade is no longer taught in his home district is individually transferred to the school to which he transfers.

4102.7 Transfer of Average Daily Attendance When Schools are Consolidated or Contracted

When districts are consolidated or contracted, the average daily attendance earned in the consolidated or contracted district is automatically transferred to the new district when the Texas Education Agency is notified of the consolidation or contract.

(See also Policies and Administrative Procedures 4400, Pupil Attendance Accounting)

Effective: May 1972

Revised: January 1974
Board Information and Review, March 1978

Appendix G

41.04 The School Year

Authority: Sections 16.005, 16.052, 16.055, and 23.38, Texas Education Code.

.010 Days of Operation Required

(1) Regular School Program

(A) Instructional Program

- (i) All school districts shall operate on the basis of a semester system, with the schools being in operation two or three semesters during each school year, providing not less than 175 days of instruction for students.
- (ii) Semesters shall be scheduled for two or three semesters. The curriculum for operation of the schools for three semesters shall be based on at least 70 minute class periods.
- (iii) The last two days of each semester may be set aside for the purpose of giving final examinations in grades where classroom instruction is on a departmentalized basis provided a formalized examination schedule is established.
- (iv) No more than three days of actual instruction during the school term may be set aside as "senior days."

(B) Inservice Training and Preparation Program

In addition to the 175 instructional days, for professional and paraprofessional personnel, excepting clerical aides, a total of not less than 10 days in 1977-78 and 8 days in 1978-79 shall be allowed for inservice training and for preparation related to the instructional program of the district. Inservice training shall be provided in accordance with policy and administrative procedure 64.02, Inservice Training.

(C) Reduction in Required Number of Days of Operation in Cases of Disaster

The Commissioner of Education may approve the operation of schools for less than the number of days of instruction and inservice training and preparation otherwise

required when disasters, floods, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of the school. When schools are forced to close because of circumstances beyond the control of the school administrator, every effort must be made to reschedule the school calendar to comply with required days of operations. When such rescheduling would cause extreme hardships on students and faculty, the school administrator may request the Commissioner of Education to waive the statutory requirements for operations. The letter requesting this waiver shall clearly outline the efforts made to comply with the requirements and the hardships caused by complying with the statutory operational requirements. Each case will be judged based on the letter submitted by the school administrator. When waivers are granted the school district, correspondence granting the waiver should be appended to the Superintendent's Annual Report.

(2) Special Programs

Special programs may be approved by the Commissioner of Education to operate a specific number of days as required by the program.

(3) Holidays

All days of attendance or duty in this policy are in addition to and do not include any holidays adopted by the local board of school trustees.

.020 Service Requirements

(1) Superintendents

The allocation of units and funds for the superintendent shall be from July 1 through June 30. Within each 12 month period, a superintendent is entitled to a vacation period to be determined by the local board of school trustees.

(2) Other Personnel

Other school district personnel shall render services and receive compensation as provided in law.

(3) Service Agreements

If service agreements are activated for personnel covered by this policy, the minutes of the board of school trustees and such service agreements shall clearly indicate the number of days of service required.

(4) Extended Service

School districts may employ personnel covered by this policy for more than the minimum number of days required provided that no portion of the Foundation School Program salary allowed for the minimum number of days required is used for this purpose.

Board Action and Date

Adopted: May 1972
Amended: February 1976
November 1977
March 1978
January 1979
September 1979

Effective Date

July 1, 1976
December 6, 1977
April 17, 1978
January 30, 1979
October 25, 1979

41.04 The School Year

Authority: Sections 16.005, 16.052, 16.055, and 23.28, Texas Education Code.

.010 Days of Operation Required

Reserved for Expansion.

.020 Service Requirements

(1) Days of Service

School district personnel are required to be on duty including eligible leave as follows:

<u>Months</u>	<u>Days</u> <u>1977-78</u>	<u>Days</u> <u>1978-79</u>	<u>Days</u> <u>1979-80 and Thereafter</u>
10	185	183	183
11	210	210	PG 1-11 202 PG 12-18 207
12	230	230	PG 1-11 220 PG 12-18 226

unless the number of days of service required has been reduced by the Commissioner of Education as provided in Policy 41.04. When the Commissioner has authorized the district to reduce the school calendar year below statutory requirements, such reduction will not reduce salaries of employees under contract for the school term. All personnel assigned for Foundation School Program funding purposes will be employed during the period the school is in operation. The 10 month contract personnel will be employed for the days indicated on the school calendar. For 11 and 12 month contract personnel, the days of employment must encompass the period the school is in operation as indicated by the school calendar.

(2) Service Agreements

The minutes of the board of school trustees and service agreements issued to personnel covered by this policy shall clearly indicate the number of days of service required.

(3) Extended Service

School districts may employ personnel covered by this policy for more than the minimum number of days required provided that no portion of the Foundation School Program salary allowed for the minimum number of days required is used for

this purpose. When school districts extend the regular school year beyond the required number of days, personnel on 10 month contracts will receive additional pay at the same daily rate specified for their 10 month salaries.

<u>Commissioner or Board Action and Date</u>	<u>Effective Date</u>
Adopted: May 1972	
Amended: September 1977, Board	December 6, 1977
Information and Review	January 30, 1979
September 1979, Board Action	October 25, 1979

Appendix H

41.07 Transportation

.070 Transportation for Handicapped Students

The Commissioner of Education may allocate funds for the transportation of handicapped students as specified by law. (Handicapped Students Eligibility, Policy 34.62; Child-Centered Educational Process, Policy and Administrative Procedure 35.72.060).

Board Action and Date
Adopted: May 1972
Amended: July 1973
January 1974
November 1979

Effective Date

41.07 Transportation

.070 Transportation for Handicapped Students

- (1) A school district that provides special transportation services for eligible handicapped students is entitled to a state allocation. Allocations for handicapped transportation in district- or county-operated school buses shall be paid on the previous year's cost-per-mile. For the 1979-80 and 1980-81 school years, the maximum allowable per mile cost will be 80 cents. For the 1981-82 and 1982-83 school years and thereafter, the maximum rate per mile allowable shall be recalculated based on data gathered from the first year of each preceding biennium.
- (2) The Commissioner of Education may grant an amount not to exceed 18 cents per mile or a maximum of \$600 per student per year for private transportation to reimburse parents or their agents for transporting eligible handicapped students. For the 1981-82 and 1982-83 school years and thereafter, the rate per mile and the maximum allowable per student will be determined by the Commissioner of Education for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. The mileage allowed shall be computed along the shortest public road from the student's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.
- (3) Districts serving eligible handicapped students who ride the bus during the fourth quarter of the 1979-80 school year shall submit a supplement to the final application requesting funds prior to July 1, 1980.
- (4) Funds appropriated may be used only for the transportation of handicapped students and must be properly accounted for in the fiscal records of the transporting unit.

Effective: May 1972

Revised: January 1974

September 1977, Board Information and Review

November 1979

Appendix I

51.01 Student Attendance Allowed

Authority: Sections 16.003, 16.005, 16.104, 16.161, 21.031, and 21.081, Texas Education Code.

.010 Free Attendance in General

- (1) A person who has not graduated from a high school and who is at least five years of age but not 21 or more years of age on September 1 of the school year for which admission is sought and who is a citizen of the United States or a legally admitted alien, shall be allowed free attendance in the school district of residence. Students in this country under a bona fide exchange program are eligible to attend school in the designated district of residence. Eligibility requirements for otherwise eligible non-resident pupils may be satisfied through the approved transfer process. (Concerning Transfers, see Policy 23.04).
- (2) A child is not eligible for enrollment in the first grade unless: (A) he or she is at least six years of age at the beginning of the scholastic year (September 1); or (B) he or she is at least five years of age on September 1 and has been enrolled in the public schools in another state prior to moving into a Texas public school district. A child not eligible under provision (B) above may be assigned to the first grade before age six, but the attendance of the child must be maintained in a kindergarten register. Likewise, a child may be assigned to kindergarten after age six, but the attendance of the child must be maintained in a first grade register. Such assignments are the decision of the local district, with the consent of the child's parent or guardian.
- (3) In order for a person under the age of 18 years to establish a residence for the purpose of attending the public free schools separate and apart from his parent, guardian, or other person having lawful control of him under an order of a court, it must be established that his presence in the school district is not for the primary purpose of attending the public free schools. The board of trustees of each local district shall be responsible for determining whether an applicant for admission is a resident of the school district for purposes of attending the public schools.
- (4) A school age child of an employee of a facility of the Texas Youth Council is entitled to attend school in a school district adjacent to the district in which the child resides free of any charge to the child's parents or guardian. Any tuition charge required by the admitting school district shall

be paid by the school district from which the student transfers out of any funds appropriated to the facility by the Legislature.

- (5) School-age children placed in foster care by an authorized agency of the state or a political subdivision shall be permitted to attend the public free schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. No durational residence requirements may be used to prohibit such a child from fully participating in any activity sponsored by the school district. Any agency of the state or political subdivision placing handicapped students eligible for special education instruction or related services as authorized by Texas Education Code Section 16.104, shall observe policies and administrative procedures of the State Board of Education.

Reference

Sections 16.003, 21.031, and 21.081, Texas Education Code

.021 Kindergarten

- (1) All children who are at least five years old but are not eligible for enrollment in the first grade are eligible for free attendance in kindergarten for either one-half day for the entire school year or for full-day attendance for one-half (one semester) of the school year in the school district in which they reside or are otherwise entitled to attend for Foundation School Program benefits.
- (2) "Educationally handicapped" children are, at the discretion of the school district, eligible for full-day attendance for the entire school year. For the purpose of determining an eligible pupil, and "educationally handicapped" child is defined as:
 - (A) a child who cannot speak and comprehend the English language; or
 - (B) a child who is from a family whose annual income is at or below that level which would qualify the student for free lunches under the National School Lunch program.

Reference

Section 16.102, Texas Education Code

.022 Pupils Physically and/or Mentally Handicapped

- (1) An eligible pupil between the ages of 3 and 21 inclusive, with physical or mental handicap (Policy 35.71) shall be allowed to attend school in a school district, subject to the Foundation School Program, which is authorized to admit the pupil.

- (2) In addition, eligible pupils include individuals ages birth through 22 inclusive with serious visual or hearing handicaps or a combination of such handicaps (Policy 35.73).
- (3) The school district of the pupil's residence is responsible for providing, or causing to be provided, programs and services appropriate to the pupil's educational needs.

Reference

Sections 16.104 and 16.161, Texas Education Code

Board Action and Date

Adopted: May 1972
Amended: September 1975
October 1977
November 1977
September 1979

Effective Date

November 1, 1977
December 8, 1977
October 5, 1979

Appendix J

51.02 Compulsory Student Attendance

Authority: Sections 21.032 and 21.033, Texas Education Code.

.010 General Provisions

Each child who is seven years of age and not more than 17 years of age and who is not excused from attendance must be enrolled in and in attendance in a public school for a minimum of 165 days of the 175 days the child is eligible for attendance per school year. (School district responsibility for compulsory attendance is found in Policy 23.04). A person between the ages of 7 and 17 who is excused from attending the public schools is one who

- (1) has graduated from a recognized high school;
- (2) attends a non-public school recognized for compulsory attendance purposes in accordance with Policy 24.01;
- (3) holds a certificate from a qualified physician stating a bodily or mental condition exists making it unfeasible to attend school;
- (4) is more than 15 years of age and is enrolled in a technical-vocational training program, a work-study program, or an apprenticeship program approved by the child's parent or guardian and the superintendent of the public school the child would otherwise attend;
- (5) any child who is handicapped, as defined in Section 16.104, Texas Education Code, and who cannot be appropriately served by the resident district in accordance with the requirements of Section 21.032, Texas Education Code; or
- (6) any child expelled in accordance with the requirements of law.

Board Action and Date

Adopted: May 1972

Amended: July 1973

September 1979

Effective Date

October 9, 1979

Appendix K

64.02 Inservice Education

.010 General Provisions

Not more than three of the required eight days may be used as preparation days. The school district may, at its discretion, count as part of the days allowed for inservice training those instructional workshops planned by or sponsored by regional education service centers, the Texas Education Agency, or institutions of higher education. A minimum of one day, or its equivalent, of inservice special education training must be provided for regular and special educators serving handicapped students. Not more than one day of professional association meetings may be counted as an inservice day. None of the inservice days may be used to conduct the business of professional associations.

Participants shall include professional and paraprofessional personnel, excepting clerical aides.

<u>Commissioner or Board Action and Date</u>	<u>Effective Date</u>
Adopted: November 1978, Board Information and Review	January 30, 1979
Amended: July 1979, Board Information and Review	October 26, 1979

Appendix L

71.05 Hearings Concerning Handicapped Students

Authority: Section 11.33, Texas Education Code, and Section 6252-13a, Vernon's Texas Civil Statutes.

These rules are intended to bring the procedures on hearings and appeals of the Texas Education Agency into compliance with Part B of the Education of the Handicapped Act as amended by Public Law 94-142, 20 U.S.C. Sections 1401 et seq. and the applicable federal regulations, 45 C.F.R. Sections 121a.1-121a.754. These rules supplement Rules 226.23.09.010-030, Hearings Before Local Boards, Rules 226.71.01.010-.210, Hearings and Appeals Generally, Rules 226.71.02.010-.180, Hearings of Appeals to the Commissioner, and Rules 226.71.03.010-.050, Appeals to the State Board of Education, and are intended to be applied together with those rules except where a conflict exists, in which case these rules shall prevail. Users of these rules should particularly be aware that the time deadlines for hearings and appeals involving handicapped children have been greatly accelerated to achieve compliance with the federal regulations, 45 C.F.R. Section 121a.512, which require the public agency hearing and decision to be completed within 45 days and state agency review to be completed within 30 days unless appropriate extensions of time are requested and granted.

.010 Applicability

Notwithstanding any other provision in the rules for Hearings Before the Commissioner of Education and the State Board of Education, the following rules shall be followed in any case involving a change in the identification, evaluation, educational placement or provision of a free appropriate public education to a handicapped child. In such cases, 45 CFR, Sections 121a.1-121a.754 shall also apply.

.020 Request for Hearing

A request for hearing must set forth in plain and concise language a substantial complaint concerning a ruling, action, or failure to act by a school official, committee, or other local administrative unit. The request must be filed with the board of trustees of the district and with the commissioner of education within 15 days after the ruling, action, or failure to act forming the basis for the complaint.

.030 Hearing

A hearing officer appointed by the state commissioner of education shall conduct a hearing within 10 days of the receipt of the request for hearing. The hearing shall be recorded and transcribed

by a court reporter, who shall immediately prepare and transmit a transcript of the evidence to the hearing officer, with copies to the petitioner and the board of trustees of the district. Within 15 days after the close of the hearing, the hearing officer shall prepare and transmit to the Commissioner of Education a proposal for decision together with the original transcript of the evidence, with copies of the proposal to the petitioner and the board of trustees.

.040 Notices to the Commissioner of Education

(a) Board of Trustees

Within 10 days after receipt of the proposal for decision, the board of trustees shall transmit to the Commissioner of Education a notice stating whether or not the proposal for decision is accepted. If the proposal for decision is not accepted, the notice shall also include proposed findings of fact, proposed conclusions of law, and a proposed order reflecting the local board's view of the case.

(b) Within 10 days after receipt of the proposal for decision, the petitioner may transmit to the Commissioner of Education a notice stating whether or not petitioner agrees with the proposal for decision. This notice may contain proposed findings of fact, proposed conclusions of law, and a proposed order reflecting petitioner's view of the case.

.050 Appeal To the State Commissioner of Education

Within 10 days after the receipt of notices from the parties, the Commissioner of Education shall consider the evidence, proposal for decision, and the notices from the parties, and shall render and transmit to the parties a decision based on the record made before the hearing officer.

.060 Appeal

If any party is dissatisfied with the final order of the state commissioner of education, he or she may appeal to the State Board of Education within 5 days of their receipt of the final order. The State Board of Education shall render a decision based on the record made before the hearing officer, along with any exceptions and replies, within 30 days of its receipt of the notice of appeal. Briefs may be received by the State Board of Education pursuant to the procedures on hearings and appeals of the State Board of Education. No new evidence will be received and no oral argument will be heard.

.070 State Board Decision

The decision of the State Board of Education shall be rendered and announced to the parties and their counsel on the date of the hearing.

.080 Rehearing

A motion for rehearing shall be prerequisite for judicial review of the decision of the State Board of Education and must be filed within 10 days after issuance of the decision. Motions for rehearing shall be overruled by operation of law if not acted upon within 30 days after filing.

.090 Extension of Time

At the request of any party, the hearing officer, Commissioner, or Chairman of the State Board of Education, as appropriate, may grant specific extensions of time beyond the periods set out in these rules.

.100 Filing of Documents

Documents shall be deemed filed only when actually received by the designated hearing officer, State Commissioner of Education, or State Board of Education.

.110 Construction of Rules

These rules shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of local school boards or this agency, or the substantive rights of any person.

Board Action and Date

Adopted: June 1978
Amended: September 1978 (Emergency)
November 1978 (Permanent)
June 1979 (Emergency)
August 1979 (Permanent)

Effective Date

July 5, 1978
September 12, 1978
December 7, 1978
June 14, 1979
September 5, 1979

Appendix M

Texas Education Code

21.031 Admission

- (a) All children who are citizens of the United States or legally admitted aliens and who are over the age of five years and under the age of 21 years on the first day of September of any scholastic year shall be entitled to the benefits of the Available School Fund for that year.
- (b) Every child in this state who is a citizen of the United States or a legally admitted alien and who is over the age of five years and not over the age of 21 years on the first day of September of the year in which admission is sought shall be permitted to attend the public free schools of the district in which he resides or in which his parent, guardian, or the person having lawful control of him resides at the time he applies for admission.
- (c) The board of trustees of any public free school district of this state shall admit into the public free schools of the district free of tuition all persons who are either citizens of the United States or legally admitted aliens and who are over five and not over 21 years of age at the beginning of the scholastic year if such person or his parent, guardian or person having lawful control resides within the school district.
- (d) In order for a person under the age of 18 years to establish a residence for the purpose of attending the public free schools separate and apart from his parent, guardian, or other person having lawful control of him under an order of a court, it must be established that his presence in the school district is not for the primary purpose of attending the public free schools. The board of trustees shall be responsible for determining whether an applicant for admission is a resident of the school district for purposes of attending the public schools.
- (e) A child placed in foster care by an agency of the state or a political subdivision shall be permitted to attend the public free schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. No durational residence requirement may be used to prohibit such a child from fully participating in any activity sponsored by the school district.

[Acts 1969, 61st Leg., p. 2910, ch. 889, § 1, eff. Sept. 1, 1969;
Acts 1975, 64th Leg., p. 896, ch. 334, § 4, eff. Sept. 1, 1975;
Acts 1977, 65th Leg., p. 1012, ch. 376, § 1, eff. Aug. 29, 1977.]